



California Regulatory Notice Register

REGISTER 2011, NO. 35-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

SEPTEMBER 2, 2011

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002–931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. “Periodicals Postage Paid in Saint Paul, MN.” **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

STATE: State Compensation Insurance Fund

A written comment period has been established commencing on **September 2, 2011** and closing on **October 17, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **October 17, 2011**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respec-

tive agency. Requests for copies from the Commission should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Notice of Proposed Rulemaking

45-Day Notice

The Department of Food and Agriculture proposes to amend Section 4603, Schedule of Charges, by adopting a new subsection (h), pertaining to service charges for Phytosanitary Certification in Title 3, Division 4, of the California Code of Regulations.

This notice is being provided to be in compliance with Government Code Section 11346.4.

PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to sbrown@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on October 17, 2011. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Stephen Brown
Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street
Sacramento, CA 95814
sbrown@cdfa.ca.gov
916.654.1017
916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agricul-

ture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing State law provides that the Department, for the purpose of enhancing the State's business and trade opportunities, may perform non-regulatory services such as export market phytosanitary certification. The Department may also establish charges sufficient to recover its costs for providing non-regulatory services (Food and Agricultural Code, Section 5851). Existing law also provides that the Department may establish, by regulation, a schedule of charges to cover the Department's costs for the specific services it provides such as export market phytosanitary activities (Food and Agricultural Code, Section 5851). Existing law also provides that regulations establishing charges adopted by the Secretary shall not be subject to review, approval, or disapproval by the Office of Administrative Law (Food and Agricultural Code, Section 5852).

Existing federal regulation establishes that states may charge to recover their costs for providing federal phytosanitary certification services, including the delivery, support and administrative costs, divided by the number of certificates issued to develop a "cost-per-certificate" (Code of Federal Regulations, Title 7, Chapter III, Section 354.3(5) [7 CFR § 354.3(5)]).

The proposed action will establish Section 4603, Schedule of Charges, subsection (h), the Department's schedule of charges for providing phytosanitary certification services for both the State and federal certificates issued in California; except those issued directly by the United States Department of Agriculture staff. The effect of the proposed regulations will be to provide authority for the Department to recover its costs for providing such non-regulatory services and to enable the client that requests the service to understand the Department's costs and billing procedures.

There is no existing, comparable federal regulation or statute.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. However, a representative private person or business would incur costs of \$6 per phytosanitary certificate issued should they request this service.

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None.

Small Business Determination

The Department has determined that the proposed regulations may affect small business.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to adopt Section 4603(h) pursuant to the authority vested by Sections 407, 5851 and 5852 of the Food and Agricultural Code.

REFERENCE

The Department proposes to adopt Section 4603(h) to implement, interpret and make specific Sections 5851 and 5852 of the Food and Agricultural Code.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant

Health and Pest Prevention Services, 1220 N Street, Room 210, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Lindsay Raines at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/phpps/Regulations.html).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **October 20, 2011**,
at 10:00 a.m.
in the Auditorium of the State
Resources Building,
1416 9th Street,
Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **October 20, 2011**,
following the Public
Meeting,
in the Auditorium of the
State Resources Building,
1416 9th Street,
Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS

MEETING: On **October 20, 2011**,
following the Public Hearing,
in the Auditorium of the
State Resources Building,
1416 9th Street,
Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation re-

quests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **October 20, 2011**.

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY
ORDERS**

Division 1, Chapter 4, Subchapter 7
Article 4, Section 3276
Article 5, Section 3287

Use of Portable Step Ladders

2. **TITLE 8:** **GENERAL INDUSTRY SAFETY
ORDERS**

Division 1, Chapter 4, Subchapter 7,
Article 4
Section 3276

**Portable Ladders—Frequency of
Inspections**

3. **TITLE 8:** **GENERAL INDUSTRY SAFETY
ORDERS**

Division 1, Chapter 4, Subchapter 7,
Article 54
Section 4188

Definition of General Purpose Die

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY
ORDERS**

Division 1, Chapter 4, Subchapter 7
Article 4, Section 3276
Article 5, Section 3287

Use of Portable Step Ladders

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

The proposed amendments are the result of a Division of Occupational Safety and Health (Division) Form 9-068 dated October 12, 2010, to clarify requirements for the use of step ladders. Existing Title 8 standards for stepladders prohibit standing on the topcap or top step below the topcap of a metal or wood ladder.

However, Title 8 standards for wood and metal ladders do not prohibit workers from stepping on the pail shelf as is prohibited by the American National Standards Institute (ANSI) A14.1–2007 and A14.2–2007 standards. Form 9–068 requests the Occupational Safety and Health Standards Board (Board) to amend Sections 3276 and 3287 of the General Industry Safety Orders (GISO) to prohibit sitting, kneeling or stepping on the topcap or pail shelf of portable metal or wood ladders. Board staff notes that federal OSHA ladder regulations do not specifically prohibit workers from sitting, kneeling or stepping on the topcap or pail shelf consistent with ANSI standards. The referenced ANSI standards allow workers to stand on the step below the ladder topcap provided it is 18 inches below the topcap. The ANSI standards step ladder labeling language prohibits standing or sitting on the pail shelf. ANSI A14.1 and 14.2 are silent with regard to kneeling on the pail shelf or topcap. Board staff agrees with the Division that the hazard of falling or upsetting the ladder is the same for all three activities and should be prohibited.

This rulemaking action proposes amending Section 3276(e)(15)(E) and Section 3287(a)(12)(B) of the GISO consistent with language contained in the ANSI A14.1 and 14.2 standards with regard to rules for safe ladder use and labeling. The proposed amendments are intended to provide reasonableness, consistency and clarity in Title 8 by identifying prohibited activities which could lead to a fall, when using wood and metal step ladders consistent with the latest national consensus standards.

Section 3276. Portable Ladders.

Section 3276 prescribes rules and establishes minimum requirements for the design, construction, selection, care, and use of all self-supporting and non-self-supporting portable ladders.

Subsection (e)(15)(E).

Existing subsection (e)(15)(E) prohibits employees from standing on the topcap or the step below the topcap of a step ladder. Amendments are proposed to slightly broaden the scope of subsection (e)(15)(E) consistent with the aforementioned ANSI standards to prohibit standing, sitting, kneeling or stepping on the pail shelf and topcap when using wooden or metal step ladders. An exception is proposed to allow workers to stand on the step below the topcap provided it is 18 inches below the topcap consistent with the ANSI A14.1 and .2 standards. The proposed amendments will clarify to employers and enforcement personnel the activities that are prohibited on step ladders and the circumstances under which workers may stand on the step below the ladder topcap consistent with national consensus standards.

Section 3287. Ladders.

Section 3287 contains provisions relating to the use of portable ladders for window cleaning.

Subsection (a)(12)(B).

The proposed amendments to subsection (a)(12)(B) mirrors the language in Section 3276(e)(15)(E). The proposed amendments will clarify to employers and enforcement personnel the activities that are prohibited on step ladders and the circumstances under which workers may stand on the step below the ladder topcap consistent with national consensus standards.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. These revisions only identify additional activities that can upset a step ladder or accentuate the hazard of falling.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commenc-

ing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7,
Article 4
Section 3276
Portable Ladders—Frequency of Inspections

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking was initiated as a result of the Occupational Safety and Health Standards Board’s (Board) Decision regarding OSHSB Petition No. 521 submitted by Mr. John McCullough, C.S.P., Assistant Vice President, Wells Fargo Risk Management Services, dated May 19, 2011. In a letter dated January 18, 2011, the Petitioner requested that the Board amend Section 3276(e)(2) concerning the frequency of portable ladder inspections. The Petitioner proposed to amend subsection (e)(2) to require that ladder inspections be conducted “at least monthly” rather than “frequently.” Board staff notes that federal OSHA ladder regulations do not define frequency in terms of ladder inspections. However, Board staff’s discussions with federal OSHA Region IX resolved this issue to the extent that “at least monthly” fits within the federal term “frequently” as used in their portable ladder standards. In his letter to the Board, the Petitioner cites Section 3207 which defines “frequent” as, “For the purpose of these orders frequent shall mean more than twelve times each year unless specifically stated otherwise in individual orders” and states that this regularity does not fit into many employers’ current inspection scheduling systems for other pieces of equipment that require inspections.

This rulemaking action proposes amending Section 3276(e)(2) with regard to the frequency of inspections for portable ladders. The proposed amendment is intended to provide specificity and clarity in Title 8 by requiring that portable ladder inspections be conducted at least monthly rather than frequently.

Section 3276. Portable Ladders.

Section 3276 prescribes rules and establishes minimum requirements for the design, construction, selection, care, and use of all self-supporting and non-self-supporting portable ladders.

Subsection (e)(2).

Existing subsection (e)(2) states, “Ladders shall be inspected by a qualified person for visible defects frequently and after any occurrence that could affect their safe use.” The proposed amendment will change the frequency at which the ladders are inspected from “frequently” to “at least monthly.” This amendment will as-

sist employers by aligning ladder inspection frequency with the frequency of fire extinguisher and emergency eyewash unit inspection which are to occur on a monthly basis. Amending Section 3276(e)(2) to require employers to inspect ladders at least monthly would clarify the number of inspections to be conducted and provide a specific interval for inspections commensurate with the employer's current inspection scheduling system.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This amendment aligns scheduled ladder inspections in accordance with other regularly scheduled inspections such as for fire extinguishers and emergency eyewash stations that are conducted on a monthly basis.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Govern-

ment Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. [See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.]

The proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

3. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 7,
 Article 54
 Section 4188
Definition of General Purpose Die

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking proposal is the result of a Division of Occupational Safety and Health (Division) Form 9 Request for New, or Change in Existing Safety Order dated May 2, 2011, to amend Section 4188 Definitions to define the term Press Brake Die, General Purpose. GISO Section 4214 addresses mechanical and hydraulic press brake guarding requirements, and subsection (b)(9) contains exceptions to the guarding requirements that apply when the nature of the work or its size or shape is such that compliance with Section 4214 guarding requirements is impractical. Specifically, subsection (b)(9)(C) excludes general purpose brakes and dies from having to be guarded when they are used with general purpose dies (i.e., 90 degree bending dies, flattening dies, 90 degree dual-bend offset dies and hemming dies). The Occupational Safety and Health Standards Board (Board) and Division staffs note that Section 4188 defines general purpose press brakes but does not define general purpose die. The Division has stated that, in absence of a general purpose die definition, there is confusion among Division staff and employers as to when the guarding exception in Section 4214(b)(9)(C) applies. To remedy this situation, the Division has proposed a general purpose press brake die definition for Section 4188.

The proposed definition is taken from national consensus language contained in Chapter 3.14 of the American National Standard, ANSI B11.3–1982 standard for Machine Tools–Power Press Brakes–Safety Requirements for Construction, Care and Use. Although, this definition is not contained in the 2002 edition of the ANSI B11.3 standard, it is still a valid definition. Based on technical input from the Sheet Metal and Air Conditioning Contractors National Association (SMACNA), Board and Division staff proposes a deviation from the ANSI B11.3–1982 definition to clarify that it does not apply to dies used for unique metal forming processes.

The proposed amendment is as follows:

Section 4188. Definitions.

This section contains various definitions for terms used in the standards comprising GISO, Group 8 Points of Operation and Other Hazardous Parts of Machinery.

An amendment is proposed to add a definition in alphabetical order in Section 4188 for the term Press

Brake Die, General Purpose based in part on the general purpose die definition contained in Chapter 3.14 of the ANSI B11.3–1982 standard and input from SMACNA. The proposed definition clarifies what a general purpose die is and that they do not include dies used for unique metal forming and bending processes. The proposal will assist employers who operate general purpose press brakes and Division enforcement personnel in determining the proper application of standards to which the newly-added definition pertains.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Further-

more, this regulation does not constitute a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Ca1.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendment to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274–5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board’s Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than October 14, 2011. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on October 20, 2011, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274–5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board’s rulemaking file on the proposed actions including all the information upon which the proposals are based is open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274–5721.

You can access the Board’s notice and other materials associated with this proposal on the Standards Board’s homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board’s website or by calling the telephone number listed above.

**TITLE 10. DEPARTMENT OF
INSURANCE**

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

**January 1, 2012 Workers' Compensation Claims
Cost Benchmark and Pure Premium Rates**

File No. REG-2011-00022

Notice Date: August 23, 2011

Approval of the Workers' Compensation Advisory Pure Premium Rates and proposed revisions to the Insurance Commissioner's Regulations pertaining to the Classification of Risks; Recording and Reporting of Data; Statistical Reporting and Experience Rating; and Approval of Advisory Pure Premium Rates to be effective January 1, 2012.

NOTICE AND SUBJECT OF PUBLIC HEARING

Notice is hereby given that the Insurance Commissioner will hold a public hearing in response to a filing, submitted on August 22, 2012, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB") to consider the following:

- Approval of the Workers' Compensation Claims Cost Benchmark and advisory pure premium rates developed by the WCIRB as a rating organization on behalf of its member insurers.
- Approval of amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.
- Approval of amendment to the Miscellaneous Regulations for the Recording and Reporting of Data as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.
- Approval of amendments to the California Workers' Compensation Experience Rating Plan—1995 as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.

HEARING DATE AND LOCATION

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**September 27, 2011 — 10:00 a.m.
California Department of Insurance
22nd Floor Hearing Room
45 Fremont Street
San Francisco, California**

AUTHORITY AND REFERENCE

Uniform Plans and Regulations

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations are promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

**Workers' Compensation Claims Cost Benchmark and
Pure Premium Rates**

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for each employee classification on behalf of its member insurers for submission to the Insurance Commissioner for issuance or approval. The WCIRB also submits an overall rate adjustment that measures the change in costs to the California worker's compensation system, designated by the Commissioner as the Workers' Compensation Claims Cost Benchmark, in addition to the changes to the pure premium rates for each classification.

The Insurance Code provisions regarding State workers' compensation insurance rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the pure premium rates issued or approved by the Insurance Commissioner. Accordingly, the pure premium rates issued or approved by the Insurance Commissioner are advisory only and an estimate of future workers' compensation claims costs. However, all insurers must submit their rates for review to the Insurance Commissioner prior to their use, and an insurer's filed workers' compensation rates are public information.

INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11750 and 11750.3, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates for use by its member insurers. The pure premium rates are advisory only, and insurers may use any set of pure premium rates that are identified in the insurer's rate filing.

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as a statistical agent. As the designated statistical agent, the WCIRB collects insurer data and recommends revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995; the Miscellaneous Regulations for the Recording and Reporting of Data; and the California Workers' Compensation Experience Rating Plan—1995 for approval. Adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 is mandatory for insurers. However, with regard to the standard classification system developed by the WCIRB and approved by the Insurance Commissioner, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the California Workers' Compensation Uniform Statistical Reporting Plan—1995 or the standard classification system developed by the WCIRB and approved by the Insurance Commissioner.

The pure premium rates recommended by the WCIRB to be effective January 1, 2012, as well as amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 are detailed in the WCIRB's filing and summarized below.

APPROVAL OF PURE PREMIUM RATES

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed pure premium rates for approval by the Insurance Commissioner to be effective January 1, 2012 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2012. The WCIRB has compared the proposed 2012 pure premium rates to the industry average filed pure premium rates as directed by the Insurance Commissioner. The proposed pure premium rates for the 494 standard classifications proposed to be effective January 1, 2012 average \$2.33 per \$100 of payroll; this is 1.8% less than the corresponding industry average filed pure premium rate of \$2.37 as of July 1, 2011.

In addition, the WCIRB will review accident year experience valued as of June 30, 2011 once it is received

and, if appropriate, will amend the pure premium rates proposed in its filing. Similarly, if legislative or regulatory changes are adopted or judicial action is taken prior to the time of the scheduled public hearing on its filing, the WCIRB will evaluate the estimated cost impact of these changes and, to the extent appropriate, modify the pure premium rates proposed in its filing and propose changes to the advisory January 1, 2011 pure premium rates with respect to policies with anniversary rating dates on or after January 1, 2011 through December 31, 2011 that are outstanding as of January 1, 2012.

The proposed pure premium rates for each classification are based on (1) insurer losses incurred during 2010 and prior accident years valued as of March 31, 2011; (2) insurer loss adjustment expenses for 2010 and prior years; (3) the experience rating off-balance correction factor; and (4) classification payroll and loss experience reported for policies issued during 2008 and prior years.

AMENDMENTS TO THE CALIFORNIA WORKERS' COMPENSATION UNIFORM STATISTICAL REPORTING PLAN—1995

The WCIRB recommends that the following revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 become effective January 1, 2012 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2012.

- Amend the minimum and maximum annual payroll for executive officers, partners, individual employers, and members of a limited liability company to increase the maximum from \$101,400 to \$104,000 and the minimum from \$39,000 to \$40,300, as well as to other payroll limitations relevant to specific classifications (e.g., athletic teams, entertainment classifications, taxicabs, etc.), to reflect wage inflation since the last time these amounts were amended (2011).
- Amend Classification 8039, *Stores — department stores — retail — including Clerical Office Employees and Outside Salespersons*, to increase the minimum annual payroll requirement from \$800,000 to \$900,000 to reflect wage inflation since the last time the amount was adjusted on January 1, 2007.
- Eliminate Classifications 5645(1), *Carpentry — detached private residences for 1 or 2 families — less than \$26.00*, 5697(1), *Carpentry — detached private residences for 1 or 2 families — equals or exceeds \$26.00*, 5645(2), *Carpentry — dwellings not exceeding 3 stories — less than \$26.00*, and 5697(2), *Carpentry — dwellings not exceeding 3 stories — equals or exceeds \$26.00*, and assign all carpentry construction operations to

Classifications 5403, *Carpentry — less than \$26.00*, and 5432, *Carpentry — equals or exceeds \$26.00*.

- Eliminate Classifications 5630, *Steel Framing — light gauge — residential — less than \$26.00*, and 5631, *Steel Framing — light gauge — residential — equals or exceeds \$26.00*, and assign all steel framing construction operations to Classifications 5632, *Steel Framing — light gauge — commercial — less than \$26.00*, and 5633, *Steel Framing — light gauge — commercial — equals or exceeds \$26.00*, and amend Classifications 5632 and 5633 to remove the “commercial or industrial” restriction.
- Amend Classification 3620(1), *Boilermaking — plate steel — N.O.C.*, to provide that this classification includes the manufacture of boilers, water heaters and autoclaves.
- Establish Classification 8601(4), *Forest Engineers — including Outside Salespersons and Clerical Office Employees*, as a cross-reference classification to 8601(1), *Engineers — consulting*, 8601(2), *Oil or Gas Geologists or Scouts*, and 8601(3), *Geophysical Exploration*, and indicate that this classification includes timber cruising.
- Amend Classification 2702(1), *Logging or Lumbering — including construction operation, maintenance or extension of logging roads or logging railroads*, Classification 2731, *Planning or Molding Mills*, and Classification 2710(1), *Sawmills or Shingle Mills — all employees — including grading, sorting, pulling, piling, drying, loading, storage and shipping of sawmill products*, to direct that forest engineering and timber cruising operations shall be separately classified.
- Amend Classification 4312, *Newspaper Delivery*, to eliminate the minimum remuneration requirement because it is no longer needed.
- Amend Classification 8631, *Racing Stables — operation — including trainers and jockeys*, to eliminate the minimum remuneration requirement for jockeys and trainers, and replace the phrase “including jockeys and trainers” with “all employees”.
- Amend Part 3, *Standard Classification System*, Section VIII, *Abbreviated Classifications — Numeric Listing*, and Appendix II, *Construction and Erection Classifications*, for conformance with the format of the 2012 experience rating worksheet and with other classification changes being proposed.

- Amend the unit statistical reporting requirements for clarity and consistency and to conform to standard national data reporting specifications for the electronic reporting of unit statistical report data, as applicable in California.
- Amend for clarity and consistency.

AMENDMENTS TO MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA

The WCIRB recommends that the following revisions to the Miscellaneous Regulations for the Recording and Reporting of Data become effective January 1, 2012 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2012:

- Amend for clarity and consistency.

AMENDMENTS TO CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995

The WCIRB recommends that the following revisions to the California Workers' Compensation Experience Rating Plan—1995 become effective January 1, 2012 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2012.

- Amend Section III, *Eligibility and Experience Period, Rule 1, Eligibility Requirements for California Workers' Compensation Insurance*, to adjust the eligibility threshold from \$16,700 to \$23,500 to reflect wage inflation and the proposed January 1, 2012 pure premium rates.
- Amend Section VI, *Tabulation of Experience, Rule 2, Experience Rating Forms*, to reinstate a phrase that was inadvertently removed.
- Amend the expected loss rates and D-ratios shown in Table II, *Expected Loss Rates and Full Coverage D-Ratios*, to reflect the most current data available.
- Amend the credibility primary and credibility excess values in Table III, *Credibility Primary and Credibility Excess Values*, to provide separate rating values for specified expected loss intervals below \$8,485.
- Amend for clarity and consistency.

In addition, the WCIRB indicated that it is in the last stages of testing the changes to its internal processing systems to implement the amendments to the experience rating formula and worksheet that were adopted by the Commissioner last year to be effective January 1,

2012. While the WCIRB anticipates that the necessary internal system changes will be fully tested and implemented well in advance of the time the 2012 experience modifications will be issued, if unforeseen difficulties arise during this final stage of testing, the WCIRB may propose a three-month delay to the January 1, 2012 effective date of the new experience rating formula and worksheet.

COSTS OR SAVINGS RESULTING FROM THE REGULATIONS

The Insurance Commissioner is authorized by law to issue or approve advisory pure premium rates. These rates may or may not be adopted by workers' compensation insurers. To the extent they are adopted by insurers, they may result in costs or savings to employers for workers' compensation insurance.

The amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 may result in additional costs or savings depending upon many factors that are specific to each employer, such as, but not limited to, whether an employer is above or below the experience rating eligibility threshold, the employer's claim experience, or the operations conducted or various employees employed by the employer.

COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Insurance Commissioner cannot determine whether or not there will be a cost or savings to local agencies and school districts, but there will not be any new programs mandated on any local agencies or school districts as a result of the proposed regulations, if adopted as proposed herein. The Insurance Commissioner is authorized by law to issue or approve advisory pure premium rates. These rates may or may not be adopted by workers' compensation insurers. To the extent they are adopted by insurers, they may result in costs or savings to local agencies or school districts insured for workers' compensation.

The amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 may result in additional costs or savings depending upon many factors that are specific to each employer, such as, but not limited to, whether an employer is above or below the experience rating eligibility threshold, the employer's

claim experience, or the operations conducted or various employees employed by the employer.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

IMPACT ON SMALL BUSINESSES

The Insurance Commissioner has determined that the proposed regulations may have an effect on small businesses. The Insurance Commissioner is authorized by law to issue or approve advisory pure premium rates. These rates may or may not be adopted by workers' compensation insurers. To the extent they are adopted by insurers, they may result in costs or savings to small businesses.

The amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 may result in additional costs or savings depending upon many factors that are specific to each employer, such as, but not limited to, whether an employer is above or below the experience rating eligibility threshold, the employer's claim experience, or the operations conducted or various employees employed by the employer.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the Insurance Commissioner expects that the proposed regulations may have an effect on private persons or entities, though its significance is unknown. The Insurance Commissioner is authorized by law to issue or approve advisory pure premium rates. These rates may or may not be adopted by workers' compensation insurers. To the extent they are adopted by insurers, they may result in costs or savings to private persons or entities.

The amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 may result in additional costs or savings depending upon many factors that are specific to each employer, such as, but not limited to, whether an employer is above or below the experience rating eligibility threshold, the employer's

claim experience, or the operations conducted or various employees employed by the employer.

FEDERAL FUNDING TO THE STATE

The matters proposed herein will not affect any federal funding.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

COST OR SAVINGS TO STATE AGENCIES

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

REIMBURSABLE COSTS

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

ACCESS TO HEARING ROOMS

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance
Attn: Christopher A. Citko
Senior Staff Counsel
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

(916) 492-3187
(916) 324-1883 (FAX)
citkoc@insurance.ca.gov

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the Insurance Commissioner's deliberations.

DEADLINE FOR WRITTEN COMMENTS

All written material, unless submitted at the hearing, must be received by the Insurance Commissioner at the address, FAX number, or email address listed above no later than 5:00 p.m. on Friday, September 30, 2011.

TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE

The Insurance Commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may be viewed or downloaded from the Regulatory Filings section of the WCIRB website (www.wcirb-online.org).

ACCESS TO RULE-MAKING FILE, CONTACT

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to the WCIRB's filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.

ADOPTION OF REGULATIONS

Following the hearing, the Insurance Commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the Commissioner's action.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE FOR IN-USE DIESEL-FUELED TRANSPORT REFRIGERATION UNITS (TRU) AND TRU GENERATOR SETS, AND FACILITIES WHERE TRUs OPERATE

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to the regulation affecting transport refrigeration units (TRU) and TRU generator sets (TRU gen set) (collectively, TRUs and TRU gen sets shall be referred to as TRUs).¹ The proposed amendments would primarily provide model year (MY) 2001 through 2003 TRU engines that complied with applicable Low Emission TRU (LETRU) in-use performance standards by specified time periods, a one- or two-year extension from the more stringent Ultra-Low Emission TRU (ULETRU) in-use performance standards. This extension would serve to restore competitive fairness to those businesses that elected to comply with the regulation during 2008 through 2010, although other businesses opted to defer their compliance efforts in light of the U.S. EPA's delay in issuing

ARB an authorization to enforce the regulation. The proposed amendments would also clarify manual recordkeeping requirements for electric standby-equipped TRUs, and ultimately require automated electronic tracking system requirements for such TRUs, establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers or containers (i.e., brokers, shippers or receivers), and clarify issues that were identified during the implementation of the regulation.

DATE: October 20, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., on Thursday, October 20, 2011, and may continue at 8:30 a.m., Friday, October 21, 2011. This item may not be considered until Friday, October 21, 2011. Please consult the agenda for the meeting, which will be available at least ten days before October 20, 2011, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendment of section 2477 and adoption of sections 2477.1, 2477.2, 2477.3, 2477.4, 2477.5, 2477.6, 2477.7, 2477.8, 2477.9, 2477.10, 2477.11, 2477.12, 2477.13, 2477.14, 2477.15, 2477.16, 2477.17, 2477.18, 2477.19, 2477.20, and 2477.21, California Code of Regulations (CCR), title 13, Division 3, Chapter 9, Article 8.

Background: Over 90 percent of Californians breathe unhealthful air at times. To improve air quality and human health, ARB establishes requirements to reduce emissions from new and in-use on-road and off-road vehicles, engines, and other sources.

The California Toxic Air Contaminant Identification and Control Program, established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code (H&S Code) sections 39650–39675, requires ARB to identify and control air toxicants in California. In 1998, the Board identified particulate matter (PM) emissions from diesel-fueled engines as a toxic air contaminant (TAC). Two years later, in September 2000, the Board adopted the Risk Reduction Plan to Reduce Particulate Matter Emissions from diesel-fueled Engines and Vehicles (Diesel Risk Reduction Plan (RRP)). The Diesel RRP established a

¹ Title 13, CCR section 2477 is known as the Transport Refrigeration Unit Airborne Toxic Control Measure and establishes in-use performance standards, recordkeeping, and facility reporting requirements for TRUs and TRU generator sets.

goal of reducing emissions and the resultant health risk from virtually all diesel-fueled engines and vehicles within the State of California by the year 2020, and included the goal of reducing diesel PM by 85 percent in 2020 from the baseline emissions in 2000. The Diesel RRP also identified various control measures for achieving the goals. These measures included new, more stringent standards for all new diesel-fueled engines and vehicles, the replacement of older in-use engines with new, cleaner engines, the use of diesel emission control strategies on in-use engines, and the use of low-sulfur and alternative diesel fuels.

TRU diesel engines currently (2011) emit approximately 1.4 tons per day of diesel PM. Staff determined that there are situations where the public's estimated 70-year potential cancer risk resulting from exposure to diesel PM emissions from TRUs is in excess of 100 in a million, because of the high cancer-causing potential of diesel PM and the potential for large numbers of TRUs to operate at one location, such as distribution centers located near residential areas.

On May 16, 2002, the Board approved the *Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines* (title 13 CCR, sections 2700–2710). This regulation establishes procedures for the verification of diesel emission control strategies by ARB that can be utilized in various diesel-fueled engines, including those in TRUs, to significantly reduce diesel PM emissions.

Health and Safety Code (H&S Code) sections 39666 and 39667 require ARB to adopt regulations to achieve the maximum possible reduction in public exposure to TACs through the application of best available control technology (BACT), or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors.

The TRU ATCM is part of ARB's ongoing effort to reduce PM emissions from diesel-fueled engines and vehicles, and to improve air quality. ARB adopted the TRU Airborne Toxic Control Measure (ATCM) in 2004. The TRU ATCM established in-use performance standards for TRUs and TRU gen sets that were to be phased in commencing on December 31, 2008. In March 2005, ARB requested that the U.S. Environmental Protection Agency (U.S. EPA) grant ARB authorization to adopt and enforce the TRU ATCM pursuant to Clean Air Act (CAA) section 209(e)(2); U.S. EPA granted California such authorization on January 16, 2009. However, because U.S. EPA's authorization was granted after the first compliance date specified in the TRU ATCM, ARB delayed the enforcement of the TRU ATCM's in-use performance standards until January 2010.

On February 2, 2011, the Board adopted amendments to the TRU ATCM that provided owners of MY 2003 TRU engines in the 25 horsepower (hp) and greater category, and of MY 2003 and MY 2004 engines in the less than 25 hp category, the option to meet the less stringent Low-Emission TRU (LETRU) in-use performance standard in lieu of complying with the otherwise applicable Ultra-Low-Emission TRU (ULETRU) in-use performance standard. The Board also adopted amendments to clarify that "flexibility" engines installed in TRUs by original equipment manufacturers before the effective date of those amendments under either the federal Transitional Program for Equipment Manufacturers or California's equipment manufacturer flexibility program (title 13 CCR, section 2423(d)), would be provided seven years of operational life, and that flexibility engines installed after that date would be subject to shorter operational lives under the amendments. Finally, the amendments established new reporting requirements on TRU original equipment manufacturers.

Description of the Proposed Regulatory Action:

ARB staff is proposing to amend the TRU ATCM to primarily provide model year (MY) 2001 through 2003 TRU engines that complied with applicable LETRU in-use performance standards by specified time periods, a one- or two-year extension from the more stringent ULETRU in-use performance standards. The proposed amendments would also clarify manual recordkeeping requirements for electric standby-equipped TRUs, and ultimately require automated electronic tracking system requirements for such TRUs; establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers or containers (i.e., brokers, shippers, or receivers); and clarify issues that were identified during the implementation of the regulation. A more detailed description of the proposed amendments is presented below.

Applicability

The proposed amendments would apply to owners of MY 2001, 2002, and 2003 and older TRU engines that met the LETRU in-use standards by their originally-specified compliance dates. Freight brokers and forwarders, shippers, and receivers would be affected by the proposed amendments if they arrange the transport of perishable goods on California highways with refrigerated carriers. The amendments would also affect owners of TRUs that are equipped with electric standby, and TRU original equipment manufacturers, dealers, repair shops, lessors and lessees, and engine rebuilders.

Extend ULETRU Compliance Date for MY 2001 and Older TRU Engines That Complied With the LETRU In-Use Performance Standard by December 31, 2008

This proposed amendment would extend the ULETRU compliance date by one year for those MY 2001 and older TRU engines that complied with the LETRU in-use standard by December 31, 2008. This proposed amendment would serve to restore competitive fairness to those businesses that elected to comply with the original TRU regulation during 2008 through 2010, although other businesses opted to defer their compliance efforts given their uncertainty resulting from U.S. EPA's delay in issuing ARB an authorization to enforce the regulation. This proposed amendment would accordingly extend the current ULETRU compliance deadline for qualifying TRU engines from December 31, 2015, until December 31, 2016.

Extend ULETRU Compliance Deadline for MY 2003 and Older TRU Engines That Complied With the LETRU In-Use Performance Standard by December 31, 2009 or December 31, 2010

At the Board's November 18, 2010 public hearing to consider the 2010 amendments to the TRU ATCM, the Board directed staff to evaluate industry's request that the current seven-year operational life for TRUs be extended up to three additional years. Industry's request would therefore extend the ULETRU compliance dates for MY 2004 and newer model TRU engines by up to three years. Staff evaluated the public health risk near distribution centers using updated TRU engine activity information and the current U.S. EPA-sanctioned air dispersion model, and determined that the public health risk at the current seven-year operational life for TRUs still results in potential cancer risk levels of concern in communities near facilities where TRUs congregate. Extending the operational life of TRUs would only increase these risks. Accordingly, staff is not recommending that the current operational life for MY 2004 and newer TRU engines be extended.

However, staff is proposing to extend the ULETRU compliance date by one year for MY 2003 and older TRU engines that complied with the LETRU in-use performance standard by specified dates (December 31, 2009 for MY 2001 and MY 2002 TRU engines; December 31, 2010 for MY 2003 TRU engines). This proposed amendment would operate in conjunction with the proposed amendment described immediately above, so that MY 2001 and older engines that complied with the LETRU standard by December 31, 2008 could qualify for a total of a two-year extension from the ULETRU standard compliance date. This proposed amendment would provide economic relief to owners who had to take action during the height of the recession. Furthermore, the proposed amendment would

only have a minimal emissions impact since most of the affected in-use TRU engines would already be controlled to LETRU levels and the near-source public health risk impacts associated with those emissions would be minimal.

Clarify Operational and Recordkeeping Requirements, and Require Automated Electronic Recordkeeping of Hybrid Electric, Electric-Standby (E/S) Equipped, and Hybrid Cryogenic TRUs

The TRU ATCM currently allows TRU owners to utilize hybrid electric, hybrid cryogenic, and electric-standby (E/S) -equipped TRUs as compliance options (Alternative Technology compliance option). This option applies if such TRUs are operated in a manner that eliminates diesel engine operations at the facilities where TRUs operate. When staff established the Alternative Technology compliance provision in the original TRU ATCM, it intended that owners using this option needed to document, via recordkeeping, that TRU engine operations at facilities were in fact eliminated. However, manual records submitted by owners have been incomplete and inconsistent. The proposed amendments would therefore specify the information required to be provided in manual records.

The proposed amendments clarify that Alternative Technology compliant TRUs are allowed to operate under diesel engine power from the time they enter the facility fence line or property line until they are parked, from a parking spot to the gate upon leaving the facility, and while being moved to and from loading docks to parking spots by yard hostlers. Engine run time within a facility fence line would be limited to no more than five minutes each time the unit moves within the facility fence line or property boundary.

The proposed amendments also clarify, that to qualify as an Alternative Technology, facilities in California where E/S-equipped TRUs are based must have electric power plugs located where TRU-equipped trucks are parked for the initial van chill-down and while awaiting dispatch and at the loading spaces. These power plug requirements also apply to any nonretail facility in California where an E/S-equipped TRU truck picks up or delivers goods if the van load includes perishable goods. At retail delivery and pick-up points, including but not limited to restaurants, grocery stores, convenience stores, and cafeterias, TRU engine run time is allowed, but limited to no more than 30 minutes per delivery/pick-up point. Electric power plugs are required at retail delivery and pick-up points if more than 30 minutes of TRU engine run time is necessary. Finally, hybrid electric or E/S TRUs must be equipped with non-resettable hour meters that record both engine and shore-powered electric motor run time (separately).

This will facilitate hour meter reading records that are required.

The proposed amendments phase-in electronic recordkeeping for hybrid electric and E/S TRUs. At least 50 percent of an owner's fleet of hybrid electric or E/S-equipped TRUs that have passed an in-use compliance deadline would need to be equipped with electronic tracking systems by December 31, 2012, and the remainder of those units would be equipped by December 31, 2013. In addition, 100 percent of an owner's hybrid electric or E/S-equipped TRUs that have a December 31, 2013 in-use compliance date would also have to meet the electronic tracking system requirement. Every year thereafter, all of hybrid electric or E/S-equipped units that are required to meet an in-use standard by the end of the year would be required to meet the electronic tracking system requirement. The electronic tracking systems must provide automated Global Positioning System (GPS) tracking, engine run time monitoring, recordkeeping and reporting. Staff believes that the use of automated tracking and reporting systems will result in improved enforceability and labor savings that more than pay for the capital and operating costs of such systems.

The proposed amendments will require out-of-state owners that elect to use the Alternative Technology compliance option to register those TRUs in ARBER (in-state owners are already required to register all of their units).

Requirements That Freight Brokers and Forwarders, Shippers, and Receivers Ensure That the Carriers They Hire Use California-Compliant TRUs

This proposed amendment would require a business entity that arranges, hires, contracts for, or dispatches the transport of perishable goods in TRU-equipped trucks, trailers, shipping containers, or railcars to require the carriers they hire or contract with to only dispatch equipment with TRUs that comply with the TRU ATCM's in-use standards if they travel on California highways or railways. That business entity would also be required to provide the driver with their company contact information and a bill of lading that includes shipper, carrier, and receiver information. The driver, in turn, would be required to provide this information to an ARB inspector, upon request.

Limited Exemption for Mobile Catering Service TRUs

This proposed amendment would provide a limited exemption to mobile catering companies for TRUs that are used during emergencies, such as TRUs on refrigerated trucks and trailers that are used to feed emergency responders, such as firefighters suppressing wildfires. The proposed exemption would allow qualifying mo-

bile catering services to defer compliance with the in-use performance standards until January 2025.

Clarifying Requirements for Repowering a TRU With a New Replacement Engine or a Rebuilt Engine

The proposed amendments clarify that new or rebuilt replacement engines used to repower a TRU must meet more stringent emissions standards than the TRU's original engine, and are subject to the TRU ATCM's in-use standards that are based on the new or rebuilt replacement engine's model year or effective model year.

Current tier new replacement engines would use the engine model year shown on the engine emissions label to determine the in-use standard that must be met and the in-use compliance deadline. Prior-tier new replacement engines would use the effective model year of the engine, as defined, to determine the in-use standard that must be met and the in-use compliance deadline.

The proposed amendments would require rebuilt replacement engines to meet the requirements of a new section of the TRU ATCM (section 2477.16) that clarifies federal and State requirements applicable to TRU engines. The amendments also clarify that when a rebuilt engine meets a prior-tier new engine emissions standard, the effective model year is used, which is the last year that the tier standard was in effect. However, if a rebuilt engine meets a tier standard for new engines that is currently in effect, then the model year, for the purposes of the TRU ATCM would be the year that the engine was rebuilt. Section 2477.16 also includes supplemental label requirements that include the model year.

Clarifying TRU Dealer Requirements to Allow California Dealers to Acquire Noncompliant TRUs and to Transmit Registration Information to the Ultimate Purchaser

The proposed amendments allow dealers doing business in California to purchase, receive, or acquire and possess noncompliant TRUs in California under certain circumstances (e.g., to accept non-compliant trade-ins when TRU owners buy new or newer compliant TRUs).

The proposed amendments also require dealers that sell new units or replacement engines, whether new or rebuilt, to pass a registration information document to the ultimate purchaser at point of sale. The registration document would come with the new unit or new replacement engine from the TRU original equipment manufacturer (OEM), or from the rebuilt engine supplier. If a new replacement engine is not supplied with a registration information document, then the dealer must provide a registration information document, which would include all of the engine information needed to register the unit in ARBER.

Provide Extensions When Compliance Technology is Not Available or Based on Delays Due to Private Financing, Equipment Manufacture Delays, or Installer Delays

The proposed amendments would authorize the Executive Officer to grant up to a one-year extension of a compliance deadline if no compliance technology is available for a specific TRU or TRU gen set within six months of a compliance date, or a one-time extension, not to exceed four months, if financing, delivery, or installation is delayed. These amendments provide flexibility in addressing issues related to Verified Diesel Emissions Control Strategies (VDECS) and other compliance options which may not be fully available on the market immediately prior to a compliance date.

Clarify Exemptions for Obviously Non-Operational Equipment and Refrigeration Systems Not Powered by Integral Diesel Engines

The proposed amendments clarify that obviously non-operational TRUs and TRU gen sets are exempt from certain subsections of the TRU ATOM, and that transport refrigeration systems that are not driven by an integral diesel internal combustion engine are exempt from the TRU ATOM.

Clarify Prohibitions on Selling Non-compliant TRUs

The proposed amendments extend the prohibitions of selling non-compliant TRUs to any person selling such non-complaint units. Auctioneers and motor carriers are now expressly included in the section prohibiting persons from intentionally or negligently importing, delivering, purchasing, or otherwise acquiring non-compliant new or used TRU or TRU gen set engines. The proposed amendments also require a seller of a non-compliant unit to disclose to a potential buyer located outside of California that the unit is not compliant with the in-use requirements and cannot be legally operated in California. In addition, the proposed amendments also prohibit an owner of a TRU equipped with an Alternative Technology, such as electric standby, from selling it, without disclosing in writing that it must be used in a way that qualifies it as an Alternative Technology.

Clarify and Streamline Requirements for Lessors and Lessees

The proposed amendments would formalize policies that staff developed in conjunction with companies that lease or rent TRU-equipped trucks and trailers which streamline issues related to the ARBER registration requirements, Operator Reports, and the in-use standards.

Allow Use of Unit Manufacture Year Instead of Engine Model Year to Determine Compliance Requirements and Dates

The proposed amendments allow the year that a TRU was manufactured, instead of the TRU engine model year, to be used in determining the applicable in-use performance standards and the related compliance deadline, provided that the difference between the unit manufacture year and the engine model year is no more than one year. If the difference between the unit manufacture year and model year is greater than one year, the engine model year must be used to determine compliance dates. However, the engine model year must be used when determining VDECS compatibility and must also be entered into the space for engine model year when registering the TRU in ARBER.

Allow the Use of Unique Identification Numbers Instead of Affixing an ARB Identification Number (IDN)

The TRU ATCM currently requires owners of California-based TRUs to apply for ARB Identification Numbers (IDN) and affix or paint the IDNs onto the TRU or TRU generator set (gen set) housing. ARB IDNs are voluntary for out-of-state-based units. The proposed amendments will allow the use of Bureau International des Containers (BIC) codes, or reporting marks in place of ARB IDNs, provided: the owner must still apply for an ARB IDN if the unit is California-based, the BIC-Code or reporting mark must be unique for each piece of equipment, and the BIC-Code or reporting mark must meet the same readability specifications currently required for ARB IDNs.

Additional Requirements for TRU Original Equipment Manufacturers (OEMs)

The proposed amendments require TRU OEMS that plan to equip TRUs with flexibility engines to: notify ARB at least 12 months in advance of the first flexibility engine installation in production; beginning 120 days after the effective date of the regulation, provide a supplemental engine emissions label for each flexibility engine installed in new TRUs and attach this label to the engine in an easily accessible place; and provide a written disclosure to prospective buyers, prior to sale of new TRUs, notifying them when a TRU is equipped with a flexibility engine, the effective model year of the engine, the ULETRU compliance deadline, and that the effective model year must be entered for the model year when the unit is registered in ARBER.

Beginning 120 days after the effective date of the amendments, the proposed amendments also require TRU OEMs to provide, for prior-tier replacement engines, supplemental engine emissions labels for each new replacement engine they supply. This label would list all of the engine information needed to register the

equipment in ARBER (if the engine manufacturer's emissions control label does not provide this information). Additionally, TRU OEMs would be required to provide written disclosure with each prior-tier engine supplied. This written disclosure would be passed on to interested buyers, notifying them that they are buying a prior-tier replacement engine that was manufactured to meet a less stringent prior-tier emissions standard than is currently required. This notification would also provide the effective model year of the prior-tier replacement engine and the ULETRU compliance deadline. Finally, the OEMs would be required to provide a registration information document with each prior-tier replacement engine they supply that would be passed on to the end user. The registration information document would include all of the engine information needed to register the equipment in ARBER and be consistent with the information that is on the engine emissions label and supplemental engine label.

Beginning 120 days after the effective date of the amendments, the proposed amendments require TRU OEMs to provide, for current-tier replacement engines and new TRUs and TRU Gen Sets, a registration information document with each current-tier replacement engine or new TRU or TRU Gen Set they supply that would be passed on to the end-user. This document would also include all of the engine information needed to register the equipment in ARBER and be consistent with the registration information that is on the engine emissions label and supplemental engine label.

Additional Requirements for Dealers and Repair Shops

The proposed amendments require dealers and repair shops to pass the registration information documents, which are supplied with new units, new replacement engines, and rebuilt engines, to the end-user. If a registration information document was not included with a replacement engine, the dealer or repair shop would have to provide it.

Additional Requirements for Engine Rebuilders

The proposed amendments require engine rebuilders to follow the federal and State engine rebuild practices of 40 CFR sections 89.130 and 1068.120, and title 13, CCR section 2423(1), and provide the supplemental rebuilt engine labels including engine model, engine effective model year (if prior-tier standard is met) or model year (if current-tier standard is met), and horsepower rating. Supplemental engine labels would need to be affixed to the rebuilt engine in a readily accessible location in accordance with 40 CFR section 89.110 (for Tier 2), or 40 CFR section 1039.135 (for Tier 4i).

Engine rebuilders would also be required to provide, within 30 days of request, documentation and engineering arguments demonstrating that they have complied with the engine rebuilding practices of 40 CFR sections

89.130 and 1068.120, and title 13 CCR section 2423(1). This technical demonstration must be completed, signed, and stamped by a licensed mechanical engineer with knowledge of the design and function of diesel engines and the control of their emissions. As part of the evaluation of the demonstration, the Executive Officer may require an emissions test to be conducted if the documentation and engineering arguments are not found to be satisfactory.

Engine rebuilders would also be required to provide a registration information document with each rebuilt engine that provides all of the engine information required under section 2477.5(e), with instructions to the dealer or repair shop to pass this document through to the end-user. The information on the registration information document would need to be consistent with the information that is on the supplemental engine label.

Clarify Registration Requirements, Consistent with ARBER Screens

During implementation, staff learned that additional information was needed to validate the registration information that was required by the original regulation. Staff believes that most of the additional data elements fall within the umbrella of existing data requirements and they are currently implemented in ARBER; however, adding them specifically would clarify the requirements and improve enforceability. Therefore, proposed amendments add registration information requirements to section 2477.5(e), which are consistent with current ARBER registration screens.

With the above-described proposed amendments, the TRU ATOM would continue to substantially decrease diesel PM and NO_x emissions, but would defer a small portion of emissions one or two years toward the end of the in-use standards phase-in (2016–2018).

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations comparable to the TRU ATOM for in-use TRUs. Under federal Clean Air Act (CAA) section 213, U.S. EPA is without authority to adopt in-use standards for off-road (non-road) engines.²

Section 209(e)(1) of the CAA conclusively preempts states, including California, from adopting requirements for new off-road engines less than 175 hp that are used in farm or construction equipment. Under section 209(e)(2), California may adopt and enforce emission standards and other requirements for off-road engines and equipment not conclusively preempted by section 209(e)(1), so long as California applies for and receives authorization from the Administrator of U.S. EPA. TRU engines are not used in farm and construction

² The California term "off-road" and the federal term "nonroad" refer to the same sources and are used interchangeably.

equipment and are thus not preempted. California requested and received authorization from U.S. EPA for the initially adopted TRU ATOM in January 2009.³

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal. The report is entitled, *Proposed Amendment of the Airborne Toxic Control Measure for In-Use diesel-fueled Transport Refrigeration Units and TRU Generator Sets, and Facilities Where TRUs Operate*.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strike-out format to allow comparison with the existing TRU ATOM, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on September 2, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website for this rulemaking at: <http://www.arb.ca.gov/regact/2011/tru2011/tru2011.htm>.

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, Richard Boyd, Manager of the Process Evaluation Section, Emission Assessment Branch, Stationary Source Division at (916) 322-8285, or Rod Hill, Staff Air Pollution Specialist, Stationary Source Division at (916) 327-5636.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2011/tru2011/tru2011.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed amendments are presented below. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

Costs or Savings to Businesses and Private Individuals

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses.

Overall, there will be a net cost savings for compliance with the proposed amendments of approximately \$13 million (2011 dollars) from 2011 through 2029. Extending the in-use standard for ULETRU for MY 2003 and older engines which met LETRU by their respective compliance dates will result in a one-time cost savings of approximately \$320,000 in 2011 dollars. The cost savings from using electronic recordkeeping for electric standby units compared to manual recordkeeping is about \$3.9 million. The cost to brokers, shippers or receivers for ensuring that the carriers they contract with only dispatch equipment with compliant TRUs is approximately \$900,000 annually, with a total of approximately 11 million dollars from 2011 to 2029. A one-time cost savings for exempting TRUs used in emergencies is about \$320,000. A cost savings of about \$21 million is estimated for allowing use of the TRU model year rather than the engine model year to determine compliance dates. Requiring OEMs, dealers, installers, and rebuilders to provide supplemental engine labeling and registration information documentation will result in costs of approximately \$200,000 annually, with a total of \$1.6 million from 2011 to 2020.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

Alternatives to the proposed amendments are described in more detail in the Staff Report.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

³ 74 Fed Reg 3030 (January 16, 2009).

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses because staff anticipates there will be cost savings if TRU and TRU gen set owners choose the retrofit compliance option. Compliance costs would not be affected if owners choose the repower option.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory amendments, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

Costs or Savings to Local and State Government Agencies

Pursuant to Government Code section 11346.5(a)(5), the Executive Officer has determined that the proposed regulatory action would not create any costs to or mandates on any local agency or school district that is reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500).

Pursuant to Government Code section 11346.5(a)(6), the Executive Officer has further determined, based on estimates prepared in accordance with instructions adopted by the Department of Finance, that the proposed regulatory action would not create additional costs to any State agency or to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), create other non-discretionary costs on local agencies, and affect costs or savings in federal funding to the State.

Several local agencies, school districts, and State agencies own TRUs, so the compliance cost savings discussed above may apply to these agencies if they own MY 2003 and older TRU engines or engines with a model year that is one year older than the unit manufacture year.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment peri-

od for this regulatory action will begin on September 3, 2011. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after September 3, 2011, and received **no later than 12:00 noon on October 19, 2011**, and must be addressed to the following:

Postal mail: Clerk of the Board,
Air Resources Board
1001 I Street,
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), written and oral comments, attachments, and associated contact information (e.g., your mailing address, phone number, email address, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 39600, 39601, 39618, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.14, 42400.2, 42400.3.5, 42402, 42402.2, 42410, 43013, 43018. This action is proposed to implement, interpret, and make specific sections 39618, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.2, 42410, 40717.9, 43013, and 43018.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the

public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation. To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER 2011 AMENDMENTS TO THE CALIFORNIA REFORMULATED GASOLINE REGULATIONS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below

to consider adoption of amendments to the California Reformulated Gasoline (CaRFG) Regulations. The proposed amendments would: (1) help preserve the benefits of the Phase 2 CaRFG standards and to correct errors of coefficients in the Predictive Model and (2) include other miscellaneous changes to improve consistency, flexibility, and enforceability.

DATE: October 20, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection
Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., October 20, 2011. This item is scheduled to be heard on the Board's Consent Calendar. All items on the consent calendar can be voted on by the Board immediately after the start of the public meeting. An item will be removed from the consent calendar at the request of a Board member or if someone in the audience would like to speak on that item.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed repeal of section 2258, and proposed amendments to sections 2260, 2261, 2264, 2265 (and the incorporated "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model" as last amended August 7, 2008), 2265.1, 2266, 2266.5, and 2271, of title 13, California Code of Regulations (CCR).

Background

The ARB administers the CaRFG regulations, which have applied to all California gasoline since March 1996; the Phase 3 CaRFG standards have applied since December 31, 2003. The CaRFG regulations establish specifications for the following eight gasoline properties: sulfur, benzene, olefins, aromatic hydrocarbons, and oxygen content, 50 percent distillation temperature (T50), 90 percent distillation temperature (T90), and summertime Reid vapor pressure (RVP). The Phase 3 CaRFG regulations also prohibit the use of oxygenated compounds (oxygenates) other than ethanol in CaRFG, and regulate the composition of denatured ethanol that can be blended with California reformulated gasoline blendstock for oxygenate blending (CARBOB) to produce CaRFG.

The CaRFG regulations allow refiners to use a “Predictive Model” to certify alternative formulations¹. The Predictive Model is a set of mathematical equations that relate emission rates of exhaust and evaporative hydrocarbons and carbon monoxide (CO), oxides of nitrogen (NOx), and potency-weighted toxics for four toxic air contaminants (benzene, 1,3-butadiene, formaldehyde, and acetaldehyde) to the values of the eight regulated gasoline properties. An alternative gasoline formulation based on the Predictive Model is acceptable if emissions of reactivity-weighted hydrocarbons and CO (total ozone forming potential), NOx, and potency-weighted toxics resulting from this formulation are no greater than emissions from gasoline having the specifications set forth in the CaRFG standards. Currently, most of the gasoline sold in California complies with the CaRFG regulations through the use of the Predictive Model.

Since 1995, most of the State’s gasoline has contained about two percent oxygen by weight. From 1995 to 2002, methyl tertiary-butyl ether (MTBE) was the oxygenated compound used in most California gasoline. Since December 31, 2003 — the Phase 3 CaRFG compliance deadline — ethanol has been the only oxygenate allowed in California gasoline². Since the phase-out of MTBE, most California gasoline contained 5.7 percent by ethanol. Since January 2010, refiners have begun producing most California gasoline with 10 percent ethanol. This recent increase in ethanol can be traced to the Federal Renewable Fuels Standard (RFS2), the 2007 amendments to the CaRFG regulations, and California’s Low Carbon Fuel Standard. RFS2 requires increasing amounts of biofuels, such as ethanol, to be used in transportation fuels. The 2007 amendments to the CaRFG regulations required emissions associated with permeation to be mitigated. Permeation refers to the diffusive process whereby fuel molecules migrate through the materials of a vehicle’s fuel system. Eventually, the fuel molecules are emitted into the air where they contribute to evaporative emissions from the vehicle. Increasing oxygen content in gasoline helps to mitigate evaporative hydrocarbon emissions such as permeation. The Low Carbon Fuel Standard requires the reduction of carbon intensity in transportation fuels, mostly through the increased use of low carbon biofuels, such as cellulosic ethanol.

The Proposed Amendments

Health and Safety Code section 43013.1 requires that the Phase 3 CaRFG regulations preserve the emissions and air quality benefits of the Phase 2 CaRFG program.

The purpose of the proposed amendments is to correct drafting errors in the *California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model* (Procedures Guide). There are nine coefficients that are proposed to be amended in the Procedures Guide. Eight of the coefficients have a very slight effect on the potency-weighted toxics (PWT) emission portion of the Predictive Model. The last coefficient does not affect the emissions output of the Predictive Model but is being amended for consistency with the correct values. The proposed coefficients would slightly ease the PWT emission standard as compared to the current incorrect coefficients in the Predictive Model, but still preserve the air quality benefits of CaRFG2 as required by Health and Safety Code section 43013.1. Staff is also proposing several additional amendments below.

In addition to correcting the coefficients, staff is proposing to require that gasoline with an RVP of 7.2 psi or less (5.99 psi or less for CARBOB) be certified as an RVP-controlled gasoline. This change would ensure that summertime gasoline produced early would meet all the requirements for summertime gasoline.

Staff is also proposing to delete an outdated provision for gasoline produced in 1992 through 1996. For gasoline sold or supplied between November 1, 1992, and February 29, 1996, California Code of Regulations, title 13, section 2258 specifies the oxygen content of gasoline during the wintertime. Section 2262.5 specifies the oxygen content of gasoline sold or supplied during the wintertime beginning on March 1, 1996. As section 2258 is no longer applicable, staff proposes to repeal this outdated section.

Staff is proposing to amend section 2266 to comport with the intent that any producer or importer intending to sell, offer, or supply a final blend of test-certified alternative gasoline formulation shall notify the Executive Officer sufficiently in advance to allow ARB inspectors an opportunity to sample and test the gasoline. Notification by the producers or importers after the gasoline has been transferred or commingled defeats these purposes.

Staff is proposing to amend section 2266.5(f)(1) to comport with the intent that no person may combine any CARBOB that has been supplied from the facility at which it was produced or imported with anything other than what is listed in the regulation.

Staff is proposing to amend the definition of racing vehicle to add clarity and more closely align with U.S. Environmental Protection Agency’s (EPA) definition.

The staff is also proposing other amendments to the CaRFG regulations to improve consistency, flexibility, and enforceability.

¹ California Code of Regulations, title 13, section 2265.

² California Code of Regulations, title 13, section 2262.6.

COMPARABLE FEDERAL REGULATIONS

The federal reformulated gasoline (RFG) regulations apply to about 80 percent of California's gasoline and are set forth in Code of Federal Regulations (CFR), title 40, part 80, section 40 et seq. The CaRFG regulations apply to all gasoline sold, supplied, or offered in California. All CaRFG meets or exceeds the requirements of the federal RFG regulations, resulting in significant additional emission reductions. Under 40 CFR § 80.81, gasoline meeting the Phase 3 CaRFG standards is exempt from several of the enforcement requirements of the federal RFG regulations.

Congress adopted a renewable fuels standard in 2005 (RFS) and strengthened it in December 2007 (RFS2) as part of the Energy Independence and Security Act (EISA). The RFS2 requires that 36 billion gallons of biofuels be sold annually by 2022, of which 21 billion gallons must be "advanced" biofuels and the other 15 billion gallons can be corn ethanol (See 40 CFR § 80.81100 et seq.).

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the environmental and economic impacts of the proposal and supporting technical documentation. The report is entitled "Proposed Amendments to the California Reformulated Gasoline Regulations."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990, on August 31, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will also be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed amendments may be directed to the designated agency contact persons: Mr. Mike Waugh, Chief, Transportation Fuels Branch, (916) 322-6020 or Mr. Adrian Caya-byab, Air Resources Engineer, Fuels Section, (916) 327-1515.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination

Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The ARB staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2011/carfg11/carfg11.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons, and businesses in reasonable compliance with the proposed regulations are presented below.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would not affect small businesses because the affected refineries are not small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the CaRFG regulations that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action

would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary costs or savings to State or local agencies.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. Alternatives that staff considered are discussed in the ISOR.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting, or comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on **September 3, 2011**. To be considered by the Board, written comments not physically submitted at the meeting must be submitted on or after **September 3, 2011**, and received **no later than 12:00 noon on October 19, 2011**, and must be addressed to the following:

Postal mail: Clerk of the Board,
Air Resources Board
1001 I Street,
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

New Feature

You can now sign up online in advance to speak at the Board meeting when you submit an electronic board item comment. For more information go to: <http://www.arb.ca.gov/board/online-signup.htm>.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so

that ARB staff and Board members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39600, 39601, 43013, 43013.1, 43018, and 43101, Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). This regulatory action is proposed to implement, interpret, and make specific sections 39000, 39001, 39002, 39003, 39010, 39048, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101, and 43830.8, Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;

- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594, or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 210, 220, 240, 5521, and 7149.8, of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 220, 5521, 7145, and 7149.8, of said Code, proposes to amend Section 29.15, Title 14, California Code of Regulations, relating to abalone.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under existing regulations (Section 29.15, Title 14, CCR), red abalone may only be taken for recreational purposes north of a line drawn due west magnetic from the center of the mouth of San Francisco Bay. Current regulations also specify: season, hours, daily limits, special gear provisions, measuring devices, abalone report card requirements, and sizes.

The regulation change is being proposed in response to the guidelines in the Abalone Recovery and Management Plan (ARMP), adopted by the Commission in 2005, with regard to average abalone density at eight index sites (surveyed on a three year cycle) within Mendocino and Sonoma counties. Recent scuba surveys indicate that the average density of emergent abalone (sublegal and legal sized) has trended downward over the past six years. Average density is now at 0.54 abalone/m² for the index sites which is substantially below the 0.68/m² average from the previous three years. Abalone creel surveys based on interviews with fishermen have recently shown indications of declining abalone populations. Wardens have also observed fishermen experiencing increased difficulty in catching limits of abalone. Low average densities and declining trends indicate a risk that leaving regulations unchanged could result in further reductions in average density, to values below the ARMP trigger level of 0.50 abalone/m², a density level that requires a 25 percent reduction in the total allowable catch (TAC) for the fishery. Abalone fishing effort, as well as catch, in the Fort Ross area is much higher than other sites and abalone densities there are approaching levels which would trigger closure for the site. Consequently, the Department is proposing regulations which will reduce the catch in the hopes that further reductions in average density and the closure of Fort Ross can be prevented.

The regulatory change will amend the existing regulations by either reducing fishing hours, reducing the annual limit, and/or reducing the season in the Fort Ross area, depending on which option(s) is chosen. The proposed regulation would also require every person using a container to store abalone prior to tagging to possess his own container and to retain abalone only in his own container. The following summarizes the options for regulatory change in Title 14, Section 29.15.

Option 1:

- Change the legal fishing hours to begin at 8:00 a.m. instead of one-half hour before sunrise.

Option 2:

- Reduce the annual limit from 24 abalone per year to no less than 12 abalone per year.

Option 3:

- Reduce the season at Fort Ross area by closing the months of April and May.

Option 4:

- Require every person who uses a container to store abalone, prior to tagging, to possess his own container and to retain abalone only in his own container.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Red Lion Hotel,

1830 Hilltop Drive, Redding, California, on Thursday, September 15, 2011 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Beach Resort Monterey, 2600 Sand Dunes Drive, Monterey, California, on Thursday, October 20, 2011 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 14, 2011 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 17, 2011. All comments must be received no later than October 20, 2011 at the hearing in Monterey, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Marija Vojkovich, Regional Manager, Marine Region, Department of Fish and Game, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations pre-

scribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts is difficult to assess because available socio-economic and fishing effort data were not designed to address this question, and therefore assumptions must be made in the analyses that are not amenable to quantitative estimation of statistical uncertainty. In particular, changes in expenditures and fishing effort by abalone fishermen in response to new regulations could be expected to differ depending upon several factors such as distance traveled to fishing grounds and the avidity of the individual fishermen, but these kinds of variables can not be stratified from the available data sets. Consequently, estimates of economic impacts are unavoidably imprecise and possibly biased, and alternative conclusions could be reached under a different set of underlying assumptions. Notwithstanding these limitations, the potential for significant statewide adverse economic impacts that might result from the proposed regulatory actions has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action(s) will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, since these activities focus on resources and features unique to the North Coast.

Option 1: Early morning closure

Economic impact: The estimated economic impact for the early morning closure is predicted to fall below the Option 2 economic impact estimate because the economic analysis was based on a predicted reduction in the number of abalone trips. The early morning closure is not expected to reduce the number of trips to the same extent that an annual limit reduction would, because a significant number of shorepickers will be able to adapt to the closure by concentrating effort in the open low tide periods or behaving more like divers, who are not as dependent on early morning low tides to take their abalone.

Option 2: Reduce the annual limit.

Economic impacts: If the Commission elects to reduce the annual limit of abalone from 24 to 12 per year, annual trips and trip expenditures by abalone sport fishermen could decrease, perhaps by as much as 37 percent. This scenario assumes a shortened season for the individual abalone fishermen since their reduced annual limits would be filled sooner. This assumption is based on historic monthly harvest rates and trip activities, which under a reduced annual limit could cause the seven months abalone season to effectively shrink to two-and-a-half months for many fishermen. A 37 percent reduction in activities and trip expenditures could translate into \$4.8 million (2009\$) in potential direct revenue losses to businesses. In the area affected by these potential direct revenue losses, the economic impact could be about \$8.5 million (2009\$) in total economic output losses (due to the ripple effect). Since expenditures per trip tend to be higher for people making fewer trips and those people are less affected by a reduced annual limit, these impacts should be considered worst case scenarios.

Option 3: Fort Ross Early Season Closure

Economic impacts: A minor adverse economic impact far below the range of the overall economic impact analysis is anticipated for the regulation change altering the season opening at Fort Ross to June 1. Most abalone fishermen may shift to other areas to the north in response to this option.

Option 4: Individual Container Possession Requirement

Economic impacts: No adverse economic impact is anticipated based on this proposed option.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

If the Commission elects to enact an early morning closure, job loss projections are likely to be minimal. Alternatively, if the Commission elects to reduce the annual limit from 24 to 12 abalone, the equivalent of up to 82 jobs may be lost. These job loss projections are all relative to employment levels associated with recreational abalone harvest and business activities calculated from annual averages using data from 2005 through 2009. Trips to Fort Ross are largely day trips and a reduction in such trips is not likely to generate significant economic losses under the Fort Ross early season closure.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

There are no increased costs or new fees, nor new reporting requirements for private persons or businesses in the proposed regulations.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:
Unknown, though some potential loss in recreational abalone report card sales revenue could likely occur.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF PROPOSED REGULATIONS

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3052 and 3062 in the

California Code of Regulations (CCR), Title 15 concerning Health and Safety Standards and Inmate Grooming Standards.

PUBLIC HEARING

Date and Time: October 26, 2011,
10:30 a.m.–11:30 a.m.

Place: Department of Corrections
and Rehabilitation
Colorado Room
1515 S Street — North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close October 26, 2011, at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283–0001; by fax at (916) 324–6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283–0001
Telephone (916) 445–2269

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

S. Pollock
Regulation and Policy Management Branch
Telephone (916) 445–2266

Questions regarding the substance of the proposed regulatory action should be directed to:

Cynthia Florez–DeLyon
Division of Adult Institutions
Telephone (916) 323–4104

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has

otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code Section 5000 provides that commencing July 1, 2005, any reference to the Department of

Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to GC Section 11340.

This action provides the following:

- Eliminates the facial hair length restrictions, and removes disciplining an inmate for the length of their facial hair, but specifies that facial hair shall be maintained in a manner as defined in Section 3062.
- Brings the Department into compliance with a Settlement Agreement that was reached in the case of *Basra v. Cate*, which was filed on June 5, 2011.
- Incorporates the wording "facial hair" into the regulations, to specify certain standards that also apply to "facial hair" as well as "hair."

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF PROPOSED REGULATIONS

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5, Penal Code (PC) Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to adopt and amend Sections 3040.1, 3043, 3043.6, 3044 and 3045.1 in the California Code of Regulations (CCR), Title 15 concerning Inmate Credit Earning.

PUBLIC HEARING

Date and Time: October 26, 2011 —
9:00 a.m. to 10:00 a.m.

Place: Department of Corrections
and Rehabilitation
Kern/Colorado Room
1515 S Street
Sacramento, CA 95811

Purpose: To receive comments about this action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

PUBLIC COMMENT PERIOD

The public comment period will close, October 26, 2011, at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

CONTACT PERSON

Please direct any inquiries regarding this action to:

Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Randy Blackwell, CCII
Regulation and Policy Management Branch
Telephone (916) 445-2220

Questions regarding the substance of the proposed regulatory action should be directed to:

Kelly Santoro, Associate Warden
California Substance Abuse Treatment
Facility and State Prison
Telephone (559) 992-7210

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Section 17500 through 17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training,

discipline, and employment of persons confined therein are vested in the director. Commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code Section 11340.

This action provides the following:

- The California Department of Corrections and Rehabilitation proposes to amend and/or adopt sections 3040.1, 3043, 3043.6, 3044 and 3045.1 of the California Code of Regulations (CCR), Title 15, Division 3, governing inmate credit earning.
- On October 26, 2009, Governor Schwarzenegger signed into law legislation SB X3-18 amending Penal Code Sections 2932, 2933, 2933.2, 2933.3, 2933.5, 2933.6, 2934, 2935, 4019 and adopting new PC Section 2933.05. This new law directly affects an inmate's credit earning and eligibility status. Among other things, this legislation eliminates the Bridging Education Program (BEP). The California Department of Corrections and Rehabilitation (CDCR) is nearing its maximum capacity for housing inmates. In response, the Department is in the process of revising relevant sections of the California Code of Regulations, Title 15, Article 3, Work and Education.
- On January 25, 2010, emergency regulations governing inmate credit earning went into effect based on Senate Bill (SB) X3-18, which was signed into law by Governor Schwarzenegger on October 11, 2009.
- On August 4, 2010, a Certificate of Compliance was issued making the emergency regulation action permanent (OAL file no. 2010-0104-02EON) which incorporated and implemented new and revised rules governing inmate credit earning based on SB X3-18.
- This action will clarify existing language which has been found to create confusion to field staff, inmates and the public regarding inmate credit earning. In addition, new language will be adopted which will enable eligible inmates who participate in the Mental Health Services Delivery System (MHSDS) at the Enhanced Outpatient Program

(EOP) level of care to participate in a Substance Abuse Program where available.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO THE AB 32 COST OF IMPLEMENTATION FEE REGULATION

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to California's existing AB 32 Cost of Implementation Fee Regulation (sections 95200–95207, title 17, California Code of Regulations (CCR)), which was developed pursuant to requirements of the California Global Warming Solutions Act of 2006.

DATE: October 20, 2011

TIME: 9:00 a.m.

PLACE: California Environmental
Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., October 20, 2011, and may continue at 8:30 a.m., Friday, October 21, 2011. This item may not be considered until October 21, 2011. Please consult the agenda for the hearing, which will be available at least 10 days before October 20, 2011, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 95201, 95202, 95203, 95204, and 95205, title 17, CCR: the AB 32 Cost of Implementation Fee Regulation (Fee Regulation).

Background:

With the passage of Assembly Bill (AB) 32, the California Global Warming Solutions Act of 2006 (Health and Safety Code sections 38501–38599), the Legislature declared that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California.

AB 32 created a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California, with the overall goal of reducing emissions to 1990 levels by 2020. The administration, implementation, and enforcement of measures to achieve the emissions reductions goals will require a stable and continuing source of funding.

AB 32 authorizes ARB to adopt a schedule of fees to be paid by the sources of GHG emissions.

On May 8, 2009, ARB released the Staff Report: Initial Statement of Reasons for Rulemaking, Proposed AB 32 Cost of Implementation Fee Regulation and Proposed Amendment to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR). At the Board's September 25, 2009, hearing the Board directed the Executive Officer to finalize the AB 32 Cost of Implementation Fee Regulation (Fee Regulation) and the amendments to the MRR. The Executive Officer subsequently adopted these regulations and submitted them to the California Office of Administrative Law (OAL). The regulations were approved by OAL and became legally effective on July 17, 2010.

Information about the Fee Regulation can be found at:

<http://www.arb.ca.gov/regact/2009/feereg09/feereg09.htm>.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

ARB staff is proposing amendments to the Fee Regulation to clarify regulatory language and conform with recent proposed amendments to the MRR that are expected to become legally effective in late 2011. The proposed amendments consist of administrative changes that add, revise, or delete definitions; change or exclude emissions reporting for some entities; clarify provisions that caused confusion in the first year of implementation; and revise applicability to exclude certain very small GHG emitters.

ARB currently expects to propose additional revisions to the MRR, after the publication of this notice. If such revisions are made to the MRR, ARB may propose additional modifications to the Fee Regulation to be consistent with the revisions to the MRR. Any additional modifications to the Fee Regulation would be made available for a 15-day comment period after the October 2011 Board hearing.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations that are comparable to this Fee Regulation or proposed amendments to the Fee Regulation.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Proposed Amendments to the AB 32 Cost of Implementation Fee Regulation.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulation, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on Wednesday, August 31, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed Fee Regulation may be directed to the designated agency contact persons, Mr. Bill Blackburn, Air Pollution Specialist, at (916) 322-7154, or Mr. David Malloy, Manager of the Climate Change Policy Section, at (916) 445-8316.

Further, the agency representative and designated back-up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at: <http://www.arb.ca.gov/regact/2011/feereg11/feereg11.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons and businesses in reasonable compliance with the proposed regulatory action are presented below. An assessment of the economic impacts of the proposed amendments to the Fee Regulation is included in the ISOR for this regulatory item.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that, except as discussed below, the proposed amendments to the Fee Regulation would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary costs or savings to State or local agencies.

The proposed amendments would impose minimal additional costs on some State and local agencies, but not on school districts. One State agency, the California Department of Water Resources, is presently subject to the existing Fee Regulation, and as a result of the proposed amendments would incur an additional cost that is estimated to be less than \$100.

The Executive Officer has determined that the proposed regulatory action will create savings to some local agencies. Five local agencies, presently subject to the Fee Regulation, are very small GHG emitters and would no longer be required to pay fees after adoption of the proposed amendments. The remaining local agencies that serve as retail providers and marketers of imported electricity and are currently subject to the existing Fee Regulation, 44 in total, would collectively pay additional fees that are estimated to be less than \$1500 as a result of the proposed amendments.

The Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies or school districts that are required to be reimbursed by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies or school districts that is required to be reimbursed pursuant to section 6 of Article XIII B of the California Constitution.

The proposed amendments to the Fee Regulation are technical amendments to conform with amendments made to the MRR and do not significantly modify the scope of the current Fee Regulation. In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The proposed amendments will not result in a net change to the revenue collected under the fee regulation. Approximately 20 to 25 current fee payers would no longer be required to report emissions through the MRR, and therefore would no longer be required to pay under the fee regulation. An estimated \$26,000 (based on 2008 reported emissions) would be distributed among the approximately 131 remaining public and private fee payers. Affected businesses should be able to absorb the increased cost without incurring a significant adverse economic impact. The Executive Officer has

made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined that, pursuant to title 1, CCR, section 4, the proposed regulatory action would not affect small businesses. The businesses affected by the proposed amended regulation include petroleum producers, natural gas producers, and other similar businesses which are excluded from the Administrative Procedure Act "small business" definition found in Government Code section 11342.610. In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the Fee Regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting, and comments may be submitted by postal mail or electronic submittal before the meeting. The public comment period for this regulatory item will begin on September 3, 2011. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after September 3, 2011, and received **no later than 12:00 noon on October 19, 2011**, and must be addressed to the following:

Postal Mail: Clerk of the Board,
Air Resources Board
1001 I Street,
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

New Feature

You can now sign up online in advance to speak at the Board meeting when you submit an electronic board item comment. For more information go to: <http://www.arb.ca.gov/board/online-signup.htm>.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board Members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification to the proposed regulatory action.

Additionally, the Board requests, but does not require, that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in Health and Safety Code sections 38510, 38597, 39600, and 39601. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 38501, 38505, 38510, 38530, 38597, 39300, 39600, and 39601.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language

with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15–days before it is adopted.

The public may request a copy of the modified regulatory text from ARB’s Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322–2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability–related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322–5594 or by facsimile at (916) 322–3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo (por decir, sistema Braille, o en impresión grande) u otro idioma;
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322–5594 o envíe un fax a (916) 322–3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF A PROPOSED REGULATION TO REDUCE GREENHOUSE GAS EMISSIONS BY REQUIRING MANDATORY COMMERCIAL WASTE RECYCLING

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of a new regulation to reduce greenhouse gas (GHG) emissions by requiring businesses, certain multifamily residences, and public entities, to recycle commercial solid waste material.

DATE: October 20, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This item may be considered at a two–day meeting of the Board, which will commence at 9:00 a.m., October 20, 2011 and may continue at 8:30 a.m., October 21, 2011. This item may not be considered until October 21, 2011. Please consult the agenda for the meeting date and time, which will be available at least 10 days before October 20, 2011, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of California Code of Regulations, title 17, division 3, chapter 1, subchapter 10, article 4, subarticle 10, Mandatory Commercial Waste Recycling, sections 95620, 95621, 95622, 95623, 95624, and 95625.

Background:

The California Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006), Assembly Bill (AB) 32, directs the ARB to work with all agencies to reduce statewide GHG emissions to 1990 levels by the year 2020. For the solid waste sector, potential strategies to achieve GHG emission reductions include man-

datory commercial waste recycling, landfill methane capture, organic waste diversion alternatives, and product stewardship. The Department of Resource Recovery Waste and Recycling (CalRecycle) has been designated as the lead agency for developing the Mandatory Commercial Waste Recycling Regulation (Commercial Recycling Regulation or regulation). However, the authority to adopt this GHG reduction measure lies with the ARB.

Because of these joint responsibilities, CalRecycle developed the proposed regulation in concert with ARB staff. CalRecycle will implement and enforce the regulation in a manner similar to its current roles. ARB staff will maintain an oversight role and assist CalRecycle in the enforcement of the regulation where necessary. CalRecycle is the appropriate State agency to lead the development and implementation of the Commercial Recycling measure given its historical authority and expertise in solid waste management activities. Chief among these authorities is the California Integrated Waste Management Act of 1989 (Assembly Bill (AB) 939). This legislation establishes a 50 percent waste diversion mandate for local jurisdictions and requires CalRecycle to periodically (every 2 or 4 years) evaluate jurisdictions' implementation of diversion programs.

Commercial waste (also known as commercial solid waste) is material generated by public and private business that is generally disposed of by landfilling. About 75 percent of the 36 million tons of solid waste deposited in California's landfills each year is from the commercial sector. The commercial sector includes businesses; multifamily residential complexes; and local, state and federal governmental entities. In 2008, the commercial sector accounted for 28 million tons of solid waste. Collection, transportation, and landfill management of 28 million tons of commercial waste costs \$2.66 billion annually.

The proposed regulation requires businesses, multifamily residences (with five or more dwelling units), and public entities, that generate 4 cubic yards or more of commercial solid waste per week to recycle. The proposed regulation requires local jurisdictions to implement a commercial recycling program that consists of providing education and outreach to affected businesses and monitoring compliance with the proposed regulation.

Description of the Proposed Regulatory Action

The purpose of the proposed Commercial Recycling Regulation is twofold: (1) to reduce greenhouse gas emissions by diverting commercial solid waste to recycling efforts; and (2) to expand the opportunity for additional recycling services and recycling manufacturing facilities in California. The increased diversion (through recycling and composting) of about 1.7 mil-

lion tons of commercial solid waste would reduce GHG emissions at full implementation in 2020 by 5 million metric tons of carbon dioxide (CO₂) equivalents (MMTCO₂e). GHG reduction would begin in 2012 and is expected to increase by about 0.5 MMTCO₂e per year until reaching the full implementation goal in 2020.

Applicability

The proposed regulation applies to all businesses, multifamily residences with five or more dwelling units, and public entities, that generate 4 cubic yards or more of commercial solid waste per week. The proposed regulation also applies to local jurisdictions that are responsible for solid waste disposal activities within their city, county, or region. The regulation does not apply to single family dwellings, multiple family dwellings of 4 or fewer units, or those that generate less than 4 cubic yards of commercial solid waste per week. Local jurisdictions, in consultation with CalRecycle, can establish other specific exemptions.

Requirements for Businesses, Multifamily Dwellings, and Public Entities

The proposed regulation will require businesses, multifamily dwellings of five or more units, and public entities, that generate 4 cubic yards or more of commercial solid waste per week to take the following actions beginning July 1, 2012:

- (1) Separate recyclable materials from their solid waste stream and either self-haul, subscribe to a hauler, and/or otherwise arrange for the pickup of recyclables, so that the separated material is diverted from disposal to recycling, reuse, or composting activities; or
- (2) Subscribe to a recycling service that includes mixed waste processing alone or in combination with other programs, activities or processes that diverts recyclable materials from disposal, yielding diversion results comparable to source separation.

The proposed regulation does not specify how much or what type of materials businesses must recycle, nor does it limit the types of materials that could be included in a recycling program.

Requirements for Local Jurisdictions

Each local jurisdiction is required to implement a commercial recycling program by July 1, 2012. The program must consist of providing education and outreach to affected businesses to inform them of the requirement to recycle and how to recycle in the jurisdiction, and monitoring the businesses' compliance with the proposed regulation. If a jurisdiction already has a commercial recycling program that targets affected businesses and addresses the outreach, education, and monitoring components of the regulation, the jurisdic-

tion would not be required to implement a new or expanded program.

A jurisdiction's commercial recycling program could also include, but is not limited to: (1) implementing a mandatory commercial recycling policy or ordinance; (2) requiring mandatory commercial recycling through the franchise contract or agreement; and/or (3) requiring that all commercial recycling materials go through a mixed waste processing system that, as part of a system in combination with other programs, activities, and processes, diverts material at a level comparable to source separation. Jurisdictions are allowed flexibility to design and implement a commercial recycling program that meets their needs, meets the needs of the businesses that are required to recycle, and works within their existing infrastructure. Jurisdictions may, but are not required to, implement an enforcement component to address non-complying businesses.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations that mandate commercial waste recycling. However, there are a number of federal programs that encourage and support waste recycling/reduction activities by State and local governments including Executive Order 13514 (2009), Resource Conservation and Recovery Act of 1976, Pollution Prevention Act of 1990, and the Resource Conservation Challenge (2002).

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

CalRecycle and ARB staff have prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The ISOR is entitled, "Initial Statement of Reasons for the Proposed Regulation to Reduce Greenhouse Gas Emissions by Requiring Mandatory Commercial Waste Recycling."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB's website listed below, or may be obtained from ARB's Public Information Office, Visitors and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California, 95814, (916) 322-2990, on August 31, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons identified below, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Ms. Teri Wion, Senior Integrated

Waste Management Specialist, CalRecycle, at (916) 341-6374, Mr. Robert Krieger, Manager, Emissions Evaluation Section, Air Resources Board, at (916) 323-1202, or Ms. Mei Fong, Air Resources Engineer, Air Resources Board, at (916) 324-2570.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, and Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564.

The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are also available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2011/recycling11/recycling11.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulation are presented below.

Costs to State Government and Local Agencies

Pursuant to Government Code section 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer makes an initial determination that this proposed action will not impose a mandate on local agencies or school districts and will not impose costs to local agencies requiring reimbursement or other nondiscretionary cost or savings upon local agencies.

Local jurisdictions, CalRecycle, and ARB may experience costs implementing and enforcing the requirements of the proposed regulation. Local jurisdictions are required to provide education, outreach, and monitoring. To implement these requirements, staff estimates that local jurisdictions will experience increased annual costs of approximately \$12,000 for small jurisdictions to \$110,000 for large jurisdictions at full implementation of the regulation in 2020 (i.e., about 1/4 to 1 person year (PY) depending on the size of the jurisdiction). The total annual statewide cost for local jurisdictions to implement the proposed regulation is estimated to be about \$12 million per year when the regulation is fully implemented in 2020.

Staff estimates that costs to CalRecycle will be approximately \$500,000 per fiscal year (5 PYs) for monitoring, oversight, and enforcement. These costs

can be met within the existing budget. Additionally, CalRecycle anticipates contract costs of about \$1 million in 2014 and 2019 for waste characterization studies needed to determine the program's effectiveness and approximately \$90,000 (0.5 PY) for contract development and management; these costs cannot be met within the existing budget. ARB costs are estimated to be about \$200,000 per fiscal year through 2020. This cost can be met within the existing budget.

The Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies or school districts that is required to be reimbursed pursuant to section 6 of Article XIII B of the California Constitution.

Costs to Businesses and Private Individuals

In developing this regulatory proposal, staff evaluated the potential economic impacts on representative private persons or businesses. Staff considered cost impacts to businesses at full implementation in 2020 and over the time it will take to implement the regulation from 2012 to 2020.

Implementation of the proposed regulation will be gradual, beginning in July of 2012 with full implementation in 2020. Systemwide costs in the beginning years of the program will result in a cost savings for the first seven to eight years; costs will gradually increase over time until full implementation in 2020. The net cost savings that result in the early years are due primarily to using existing collection system capacity. As collection tonnages increase beyond a certain level, costs of collection would increase. Over the 2012 through 2020 time period, the average annual savings to a typical business would be between \$119 and \$180 per year, and for an average household living in a multifamily complex a savings of between \$5 and \$7 per year. During this period, the proposed regulation will result in a system-wide savings of between \$343 million to \$519 million.

As discussed above, the cost of the regulation will increase as collection tonnages increase beyond a certain level. By 2020, the estimated costs for an average business would increase by between \$8 to \$14 per month, for an average household living in a multifamily complex covered by the rule costs would increase by between \$0.30 and \$0.60 per month.

The cost estimates are based on reasonable expectations of how businesses will comply with the proposed regulation. Several additional factors may contribute to even lower cost estimates including: waste reduction through increased business efficiencies, greater reuse of materials, less waste through more efficient packaging,

and lower recycling costs through economy of scale.

On a statewide basis, the average cost-effectiveness of the proposed regulation in 2020 is anticipated to be \$6 to \$11 per metric ton of CO₂e reduced. However, due to cost savings in the early years of the program the average cost-effectiveness over the 2012 through 2020 time period is a savings of \$14 to \$21 per metric ton of CO₂e.

Pursuant to Government Code section 11346.5(a)(8), the Executive Officer makes an initial determination that this proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Executive Officer has made an initial determination that the proposed regulatory action may have a beneficial economic impact directly affecting businesses.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

Implementation of the proposed regulation is estimated to result in economic benefit to California and create approximately 1,500 to 1,600 new jobs in California. Previous studies on the economic impact of recycling versus disposal have found significant positive effects in California. Recycling a ton of 'waste' has twice the economic impact of burying it in the ground. The additional benefits from recycling will not only generate additional jobs but would also result in additional goods and services. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses.

Staff estimates that about 320,000 businesses and multifamily residences will have to take specific actions to comply with the proposed regulations. Of this total, about 250,000 are businesses and an additional 70,000 are multifamily residences. The affected businesses represent approximately 20 percent of California's 1.5 million businesses and are responsible for about 75 percent of the commercial waste generated in California. Using the Department of General Services criteria for small business criteria (less than 100 employees), about 93 percent of these businesses and multifamily residences would be considered "small"

businesses. The regulated multifamily residences represent about 60 percent of the waste from multifamily residences.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the proposed regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

Staff evaluated four key alternatives to the proposed regulation: (1) no action; (2) implementing a voluntary measure; (3) extending the time for full implementation by 5 years; and (4) decreasing the time for full implementation by 5 years. As discussed in the staff report, staff has determined that no alternative to the proposed regulation would be more effective and none would be as effective or less burdensome to affected stakeholders.

ENVIRONMENTAL ANALYSIS

In accordance with ARB's certified regulatory program, California Code of Regulations, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.*, ARB has conducted an analysis of the potential for significant long or short term adverse and beneficial environmental impacts associated with the proposed regulatory action. ARB has determined that the proposed regulatory action would not have a significant adverse effect on the environment and will have beneficial impacts on the environment in terms of reduced greenhouse gases. A detailed environmental analysis of the proposed regulatory action can be found in the ISOR.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on September 3, 2011. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after September 3, 2011 and received

no later than 12:00 noon on October 19, 2011, and must be addressed to the following:

Postal mail: Clerk of the Board,
Air Resources Board
1001 I Street,
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

New Feature

You can now sign up online in advance to speak at the Board meeting when you submit an electronic board item comment. For more information go to: <http://www.arb.ca.gov/board/online-signup.htm>.

Please note that under the California Public Records Act (Gov. Code, § 6250 *et seq.*), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in California Health and Safety Code sections, 38501, 38510, 38560, 39562, 39580, 39600, and 39601. This action is proposed to implement, interpret, and make specific sections 38501, 38505, 38510, 38550, 38551, 38560, 39003, 39500, 39562, 39580, 39600, 39601, and 40001(a), California Health and Safety Code, sections 40100, 40183, 40184, 40191, 40192, 40195.1, 40201, 40975, 41780–41786, 41800, 41821, 41825, 41850, and 41952, Public Resources Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act,

Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

TITLE 23. CENTRAL VALLEY FLOOD PROTECTION BOARD

NOTICE OF PROPOSED RULEMAKING

AMENDMENTS TO TITLE 23, CA CODE OF REGULATIONS REGARDING CHANGES RELATED TO AB 1165

NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the Central Valley Flood Protection Board (Board) proposes to amend the following Sections in Division 1, Chapter 1 of Title 23, California Code of Regulations:

- Section 4 (Definitions)
- Section 5 (Delegations)
- Section 5.1 (Ex Parte Communications)
- Section 9 (Acknowledgement of Receipt, Completeness of Applications, and Notice to Contiguous Landowners)
- Section 10 (Environmental Review)
- Section 11 (Variances)
- Section 12 (Protests)
- Section 13 (Evidentiary Hearings)
- Section 14 (Board Decision)
- Section 16 (Permit Conditions)
- Section 17 (Emergencies)
- Section 20 (Initiation) deleted and replaced with Section 20 (Purpose and Authority)
- Section 21 (Hearing) deleted and replaced with Section 21 (Maintenance Activities)
- Section 22 (Board Decision) deleted and replaced with Section 22 (Emergency Impairment Response Authority)
- Section 103 (Notices and Hearings)
- Section 109 (Right of Review of Delegated Authority)
- Section 110 (Review Procedures)
- Appendix A (Acceptance of a Permit)
- Appendix A (Sample Permit)

In addition, the Board proposes to delete the following sections from Division 1, Chapter 1 of Title 23, California Code of Regulations:

In addition, the Board proposes to rename Article 4 — Enforcement Proceedings as “Article 4 — Enforcement Actions” and add the following new sections to

Division 1, Chapter 1 of Title 23, California Code of Regulations:

Section 23 (Notice of Violation)

Section 24 (Cease and Desist Orders Issued by the Executive Officer)

Section 25 (Cease and Desist Order Board Hearing Procedures)

Section 26 (Permit Revocation)

Section 27 (Nuisance and Civil Penalty Provisions)

PUBLIC PROCEEDINGS/WRITTEN COMMENTS

A public hearing regarding this proposal is scheduled on:

Friday, October 28, 2011 at 10:00 a.m.

(Check website for agenda 10 days prior)

Hearing Location:

State of California Resources Building

First Floor Auditorium

1416 Ninth Street,

Sacramento, CA 95814

Oral or written testimony may be given by any interested person on the day of the hearing. Following the public hearing, the Board may adopt the proposals substantially as described herein and in the Initial Statement of Reasons, or may modify the proposals if the modifications are substantially related to the original text. Notice is also given that any interested person may submit written comments relevant to the proposed regulatory action prior to 5:00 p.m. on Wednesday, October 19, 2011 to:

Primary: Curt M. Taras, P.E., Supervising Engineer
ctaras@water.ca.gov 1-916-709-0519

Alternate: Eric R. Butler, P.E., Supervising Engineer
erbutler@water.ca.gov 1-916-574-0707

Central Valley Flood Protection Board
3310 El Camino Avenue, Room 151
Sacramento, California 95821
(FAX) at (916) 574-0682

We request but do not require that written comments be submitted to our office by October 19, 2011 in order that staff can prepare them for the Board hearing. However, written comments will still be accepted at the hearing.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by California Water Code section 8571 and 8610.5, the proposed rulemak-

ing will delegate by regulation the authority to approve or deny certain encroachment permit application and to issue Cease and Desist Orders to the Board's Executive Officer. In addition, pursuant to authority vested by Water Code section 8571, these regulations adopt, amend, and repeal other rules to promote the convenient, orderly, and just conduct of the business of the California Central Valley Flood Protection Board (Board). The proposed rulemaking also makes several substantive and non-substantive changes in order to make the current regulations consistent with legislation and State practice. In addition to making enforcement changes related to AB 1165, the purpose of the proposed rulemaking is to update the regulations to define all of the enforcement actions available to obtain compliance with flood control laws and regulations. The Board's authorities relevant to permitting are generally stated in Water Code sections 8610.5 and 8710-8723. The Board's authorities relevant to enforcement actions are generally stated in Water Code sections 8709-8709.7. Pursuant to the authority vested by Water Code section 8571, the California Central Valley Flood Protection Board proposes changes to Division 1 of Title 23 of the California Code of Regulations. These proposed regulations will implement and interpret Water Code sections 8610.5 and 8709-8709.7 and 8710-8723.

INFORMATIVE DIGEST

Pursuant to the authority vested by California Water Code section 8610.5 and 8709-8709.7, the purpose of the proposed rulemaking is to provide the delegated authority regulations described in these sections of the California Water Code. Section 8610.5 allows the Board to define by regulation the types of encroachments that will not significantly affect the State Plan of Flood Control. It then states that an evidentiary hearing is not required for uncontested applications for those types of encroachments. Essentially, the law is amended to allow the Board's staff to process and approve minor encroachments that are code compliant and uncontested without holding a hearing or obtaining a vote of approval from the Board. Instead, the Board has approved its standards which are used by staff to approve or deny encroachment applications. Applicants and Protestants retain the right to request a hearing if unsatisfied with any staff determination.

The Board's authorities relevant to enforcement actions are stated in Water Code sections 8709-8709.7. Here the law states that the Board may delegate to the Executive Officer the authority to issue a Cease and Desist Order on any person or public agency threatening any flood control feature under the Board's jurisdiction, to enforce any requirement of a permit, or to enforce any requirement of Division 5, Part 4 of the Water Code.

It also adds new provisions for the Board to order restoration of a site. The law also now grants the Superior Court the ability to impose fines on any person or public agency that violates these provisions of the Water Code.

Pursuant to the authority vested by Water Code section 8571, the California Central Valley Flood Protection Board proposes changes to Division 1 of Title 23 of the California Code of Regulations. These proposed regulations will implement and interpret Water Code sections 8610.5 and 8709–8709.7 and 8710–8723.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulatory action would not impose a mandate on local agencies or school districts, nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. No nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OF SAVINGS TO STATE AGENCIES

The proposed permitting delegation regulations will save the State of California over \$120,000 annually to issue flood system encroachment permits. The estimated savings is equivalent to one additional staff engineer to prepare every permit application for a Board consent vote. The proposed enforcement action regulations will save the State of California millions of dollars annually in reduced flood insurance premiums and reduced liability from flooding due to levee failure.

EFFECT ON FEDERAL FUNDING TO THE STATE

The proposed regulations will prevent the State of California from losing millions of dollars in Federal Levee Rehabilitation funding under Public law PL 84–99.

EFFECT ON HOUSING COSTS

The proposed regulations will reduce housing costs by reducing the cost of flood insurance for homes with federally backed mortgages.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE/EFFECT ON SMALL BUSINESS

The proposed regulations will have a positive statewide economic impact directly affecting businesses, in-

cluding the ability of California businesses to compete with businesses in other states. The proposed regulations will delegate to Board staff the ability to issue permits and thus reduce the waiting period for a flood system encroachment permit, which will reduce the cost of doing business in California.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS/BUSINESS

The proposed regulations will result in a net benefit to protect California jobs and small business from flood losses. Jobs are typically created in areas protected from flooding and natural disasters and eliminated in areas with a high risk of flooding and economic loss.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The proposed regulations allow enforcement action to be issued to private persons or businesses. If a person or entity is ordered to comply with State flood control regulations, it can result in a potential cost to the person or entity of up to tens of thousands of dollars. These costs could include removal of an encroachment on a levee and restoration of any damage. However, the benefit to the State and the public of the flood control system and its levees is in the billions of dollars.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. During its preliminary consideration of alternatives, all comments brought to the attention of the Board were incorporated in these proposed regulations.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared and has available for public review an Initial Statement of Reasons for the proposed regulations and the text of the proposed regulations. A copy of the Initial Statement of Reasons and a copy of the proposed text are posted on the Board's website at www.cvfpb.ca.gov. These documents may also be requested from the contact persons listed below.

FINAL STATEMENT OF REASONS

After adoption a copy of the Final Statement of Reasons will be published on the Board's website at www.cvfpb.ca.gov. For those without internet access, the final statement of reasons will also be available by contacting the following staff members:

CONTACT PERSONS

Primary: Curt M. Taras, P.E., Supervising Engineer
ctaras@water.ca.gov 1-916-709-0519

Alternate: Lorraine Pendlebury,
Analyst to the Board
pendlebury@water.ca.gov 1-916-574-0609

Alternate: Eric R. Butler, P.E., Supervising Engineer
erbutler@water.ca.gov 1-916-574-0707

TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
PROPOSITION 65

NOTICE OF PROPOSED RULEMAKING

PROPOSED AMENDMENT OF SECTION 25903 NOTICES OF VIOLATION

SEPTEMBER 2, 2011

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to amend Title 27, Cal. Code of Regulations, section 25903¹, to allow electronic service on the Attorney General's offices for Notices of Violation. The text of the proposed amendment is attached to this notice.

PUBLIC PROCEEDINGS

OEHHA is requesting public comment concerning the proposed amendment to the regulation. A public hearing to present oral comments will be scheduled only upon request. Such a request must be submitted in

¹All further references are to Title 27, California Code of Regulations, unless otherwise indicated.

writing no later than 15 days before the close of the comment period on October 18, 2011. The written request must be received by OEHHA at the address listed below no later than October 3, 2011. A notice for the public hearing, if one is requested, will be posted on the OEHHA web site at least ten days in advance of the hearing date. The notice will provide the date, time, location and subject matter to be heard. Notices will also be sent to those individuals requesting such notification.

Any written statements or arguments, regardless of the form or method of transmission, must be received by OEHHA by 5:00 p.m. on October 18, 2011, which is hereby designated as the close of the written comment period. Written comments regarding this proposed action may be sent by fax, mail or by e-mail addressed to:

Fran Kammerer
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, California 95812-4010
Telephone: 916-445-4693
Fax: 916-323-2610
E-mail: fkammerer@oehha.ca.gov

Comments sent by courier should be delivered to:

Fran Kammerer
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
Sacramento, California, 95814

It is requested, but not required, that hard-copy statements or arguments be submitted in triplicate.

CONTACT

Inquiries concerning the action described in this notice may be directed to Fran Kammerer, Staff Counsel via e-mail at fkammerer@oehha.ca.gov, or via mail at OEHHA, P.O. Box 4010 Sacramento, California 95812-4010. Monet Vela is a back-up contact person for inquiries concerning processing of this action and is available at (916) 323-2517 or mvela@oehha.ca.gov.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposition 65 was enacted as a voters' initiative on November 4, 1986, and codified at Health and Safety Code section 25249.5 et seq. OEHHA, within the California Environmental Protection Agency, is the state entity responsible for the implementation of Proposition 65. OEHHA has the authority to promulgate and amend regulations to further the purposes of Proposi-

tion 65². Proposition 65 requires a private person who brings an action in the public interest for violation of Proposition 65 to first give notice of the alleged violation to the alleged violator, the Attorney General, district attorneys, and certain city attorneys.

Currently, the district attorneys or city attorneys can receive the notice electronically, if they so elect, but the office of the Attorney General must be notified via U.S. Mail. The proposed amendments to Section 25903(c)(1) would allow electronic service on the Attorney General's office.

AUTHORITY

Health and Safety Code section 25249.12.

REFERENCE

Health and Safety Code sections 25249.5, 25249.6, 25249.10(c), 25249.11, and 25249.12.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. Proposition 65 expressly does not apply to federal, state or local governmental agencies (Health and Safety Code section 25249.11(b)).

COSTS OR SAVINGS TO STATE AGENCIES

OEHHA has initially determined that no significant savings or increased costs to any State agency will result from the proposed regulatory action. Proposition 65 expressly does not apply to federal, state or local governmental agencies (Health and Safety Code section 25249.11(b)).

EFFECT ON FEDERAL FUNDING TO THE STATE

OEHHA has initially determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

² Health and Safety Code section 25249.12.

EFFECT ON HOUSING COSTS

OEHHA has initially determined that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

OEHHA has made an initial determination that the adoption of the amendments to the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation does not impose any new requirements upon private persons or businesses.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS/BUSINESSES

OEHHA has initially determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulatory action will not impose any new or additional requirements on small businesses. Proposition 65 exempts businesses with less than 10 employees³.

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA, would be more effective in carrying out the purpose for which Proposition 65 is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

³ Health and Safety Code section 25249.11(b).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the proposed regulatory amendments, all the critical information upon which the regulation is based, and the text of the proposed amendments to the regulation. A copy of the Initial Statement of Reasons and a copy of the text of the proposed regulation are available upon request from Monet Vela at the telephone number indicated above. These documents are also posted on OEHHA's Web site at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any proposed regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the changed proposed regulations and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such change. Copies of the notice and the changed regulation will also be available at OEHHA's web site at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from OEHHA's Monet Vela at the telephone number indicated above. The Final Statement of Reasons will also be available at OEHHA's web site at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

TITLE 2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or CEIR has been submitted and the prospective contractors are ineligible to enter into State

contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

DEPARTMENT OF FISH AND GAME

CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION NO.

2080-2011-017-03

Project: Dixon Ditch and Main Drain and V-Drain Project

Location: Solano County

Applicant: Dixon Regional Watershed Joint Powers Authority

Notifier: Monk and Associates

Background

Dixon Regional Watershed Joint Powers Authority (Applicant) proposes to enlarge the Dixon Main Drain (Drain) and V-Drain channels (V-Drain) to increase flow capacity to accommodate periodic flood events that overwhelm the current Drain and V-Drain capacity (hereafter, the Project). The Project will increase the capacity of the Drain by 135 cubic feet/second (cfs) over the existing capacity of 240 cfs. The capacity of the V-Drain will be increased by 375 cfs over the existing capacity of 1,132 cfs. The Drain will be widened by up to two feet for a maximum bottom width of six to eight feet and increase the depth by up to two feet. The V-Drain will be widened to a maximum bottom width ranging from 26 to 40 feet and deepened in some locations by up to 1.5 feet. In addition, the Project includes the fill of 0.09 acres (615 square feet) of U.S. Army Corps of Engineers (Corps) jurisdictional wetlands, the replacement of two 60-inch culverts and an associated crossing, relocation of an adjacent irrigation structure, and the realignment of the V-Drain outlet into the "RD 2068 Canal." The Project will be completed using industrial grading and excavating equipment.

The Project as described above is expected to result in the incidental take¹ of giant garter snake (*Thamnophis couchi gigas*) and delta smelt (*Hypomesus transpacificus*). In particular, giant garter snake could be incidentally taken as a result of Project vehicle and equipment traffic, and movement of the species from current habitat to other areas in the vicinity of the Project. The Project activities to widen and deepen the Drain and V-Drain could also cause incidental take of delta smelt through drowning as a result of being placed on land and as a result of being crushed or impinged against the bottom of the drains. Giant garter snake are designated as a threatened species under the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the

California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(4)(E).) Delta smelt are also designated as a threatened species under the ESA and CESA. (See *Id.*, § 670.5, subd. (a)(2)(O).)

Giant garter snake and delta smelt are documented to occur in and around the Project site, and there is suitable habitat within and adjacent to the Project. Because of the presence of suitable giant garter snake and delta smelt habitat within and adjacent to the Project site, the United States Fish & Wildlife Service (Service) determined that giant garter snake and delta smelt are reasonably certain to occur within the Project site and that Project activities are expected to result under the federal ESA in the incidental take of giant garter snake and delta smelt.

According to the Service, the Project will result in the temporary loss of 8.46 acres of aquatic habitat for the delta smelt and giant garter snake as a result of Project-related dredging activity. The Service also determined Project construction activities will result in the permanent loss of 0.09 acres of wetland habitat for the giant garter snake.

Because the Project is expected to result in the take of species designated as threatened under the federal ESA, the Corps consulted with the Service as required by federal law. On December 7, 2010, the Service issued a related biological opinion (Service File No.: 81410-2010-F-0008-2) (BO) to the Corps, issuing an amendment to the BO on June 28, 2011 (Service File No.: 81410-2010-F-R001) (hereafter, the BO as Amended). The BO as Amended describes the Project and requires the Applicant to comply with the terms of the BO as Amended, along with a related incidental take statement (ITS), incorporating various measures to address Project impacts on giant garter snake and delta smelt.

On July 15, 2011 the Director of the Department of Fish and Game (DFG) received a notice from Ms. Hope Kingma of Monk and Associates on behalf of the Applicant requesting a determination, pursuant to Fish and Game Code section 2080.1, that the BO as Amended and its related ITS are consistent with CESA for purposes of the Project, giant garter snake and delta smelt. (Cal. Reg. Notice Register 2011, No. 30-Z, p. 1214.)

Determination

DFG has determined that the BO as Amended, including the ITS, is consistent with CESA as to the Project, giant garter snake and delta smelt because the mitigation measures contained in the BO as Amended and ITS meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, DFG finds that: (1) Take of giant garter snake and

¹ Pursuant to Fish and Game Code section 86, " 'Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill."

delta smelt will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO as Amended and ITS will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of delta smelt and giant garter snake. The mitigation measures in the BO as Amended and ITS include, but are not limited to, the following:

Avoidance, Minimization and Mitigation Measures

- Construction activities will take place during the appropriate work windows for giant garter snakes and delta smelt. Upland excavations will be conducted between May 1 and October 15 during the active season for giant garter snake and all in-channel work will be conducted between August 1 and October 15 for delta smelt and giant garter snake.
- All work within the channel will be restricted to the period between August 1 and October 15 when listed anadromous fish species are least likely to be present in the action area.
- A Service and DFG-approved biologist will conduct a pre-construction survey for giant garter snake and remain on-site during vegetation clearing activities to check for snakes.
- A Service and DFG-approved biologist will remain on-site during all activities that may result in the take of delta smelt.
- If giant garter snakes are found in the work area, the Service and DFG will be contacted. At the direction of the Service and DFG, individual snakes will be relocated by a Service and DFG-approved biologist within the same water-body, outside the Project action area.
- The Corps shall be responsible to ensure the Applicant complies with the BO as Amended, including the ITS.
- The Corps shall be responsible to ensure the Applicant minimizes effects to delta smelt and giant garter snake as required by the BO as Amended and the ITS.
- Project heavy equipment shall be restricted to existing roads, where possible, to minimize Project effects to giant garter snake habitat. All vehicles shall be required to observe a 15-mile per hour speed limit while driving on all dirt access roads.
- Temporary, in-stream sediment traps and turbidity curtains will be installed immediately downstream from the Project construction area so that all suspended sediment in the water is contained in order to reduce impacts to fish habitat downstream.
- The existing pump station on the "RD 2068 Irrigation Canal," at the southern extent of the Project, will be used to further capture suspended sediments to further avoid Project effects to downstream fish habitat.
- After installation of the fence barrier, a qualified biologist/biological monitor shall inspect the Project work area on a daily basis, including the upland areas adjacent to the creek and the enclosed staging area, for presence of snakes prior to mobilization of equipment.
- To avoid attracting giant garter snake, vegetation removed shall be placed directly into a disposal vehicle and transported off-site. Vegetation shall not be piled on the ground unless it is later transferred, piece by piece, under direct supervision of the qualified biologist.
- An employee education program regarding delta smelt and giant garter snake shall be completed prior to the date of the initial Project construction activities. Documentation of the training, including the original sign-in sheets, shall be submitted to the Service within ten (10) working days after completion of the class.
- The Applicant has produced and will implement and adhere to the May 2009 Mitigation and Monitoring Plan to achieve the stated success criteria for vegetation colonization for channels, banks, and floodplain benches, and will adhere to a 5-year monitoring program, as described in the plan and stated in the Project description. The Applicant shall provide the Service and DFG with copies of their monitoring reports.
- The Applicant shall install and maintain fencing along the western boundary of the Project site to ensure there is no unplanned vehicle use to access or otherwise impact the adjacent property. Exclusionary fencing consisting of tightly woven fiber netting of silt fencing shall be buried at least four to six inches deep. Fencing shall be inspected and maintained daily during Project construction activities.
- Excavations will be covered or will have escape ramps installed overnight to prevent entrapment of wildlife.

- All disturbed soils will be stabilized prior to October 15 and/or immediately after construction is completed through the application of straw mulch, seeding, and erosion control blankets on any banks with a greater than 30 percent slope in order to minimize the potential for erosion.
- The Project includes integrated conservation measures such as implementing standard best management practices that control for dust, erosion, sedimentation, and turbidity, as well as conforming to water pollution control standards that require an emergency cleanup plan and equipment be kept on site during construction activities, and specifying that vehicle maintenance, refueling, and construction staging areas be located 100 feet from the wetted portion of the channel in order to prevent the transport of any deleterious materials into the channel.
- Best management practices shall be used, including the use of hay wattles, hay bales, and/or silt fences, to ensure that Project construction-related silt or sediment releases do not affect seasonal wetlands. No silt or sediment shall drain towards or be deposited in the two seasonal wetlands on the west of the Project site.

Monitoring and Reporting Measures

- A Service and DFG-approved biologist will be allowed to conduct site visits through the 5-year monitoring timeframe, to ensure mitigation or aquatic and upland areas at the Project site develop and establish giant garter snake habitat. As the channels are constructed adjacent to private properties, and access is limited at various locations with installed gates, at a mutually agreeable time during normal business hours, with 96 hours notice, the Applicant or a designated representative and a Service and DFG-approved biologist will accompany Service and DFG personnel during the site visits.
- All construction personnel will receive instruction from a Service and DFG-approved biologist regarding the potential presence of state and federally listed species, and the importance of avoiding Project-related effects to these species and their habitat. Documentation of the training, including the original sign-in sheets, shall be submitted to the Service and DFG within ten (10) working days after completion of the class.
- A Service and DFG-approved biological monitor will be present on the Project site during construction activities to ensure there are no related effects to any habitat outside the designated Project footprint. The biological

monitor will be present to ensure that no avoidable take of listed species or destruction of their habitat occurs. The biologist will have the authority to stop all activities that may result in take or destruction until the appropriate corrective measures have been completed. The biologist shall report any unauthorized impacts to Service and DFG. The DFG contact, Mr. Jim Starr, can be reached via telephone at (209) 941-1944. Original monitoring records or a final monitoring report shall be provided to the Service and DFG within ninety (90) days of completion of the surveys.

- The Service-approved biologist(s) shall maintain written monitoring records that include: (1) the beginning and ending time of each day's survey efforts; (2) a statement identifying the species, including general wildlife species, when they were encountered, and the location when such species were found; (3) the condition when the specimen was identified and by whom; and (4) a description of any actions taken. The biological monitor shall maintain complete records in their possession while conducting surveys and shall immediately surrender such records to the Service or DFG upon verbal or written request. Originals of monitoring records or a final monitoring report shall be provided to the Service within ninety (90) days of completion of the surveys.

Financial Assurances

- The Applicant shall provide funding assurances for the management and monitoring of 18 to 19 acres of giant garter snake aquatic habitat, including the 8.65 acres of snake floodplain habitat, with an Irrevocable Letter of Credit (LOC) or other mechanism approved by the Service and DFG. The Applicant shall provide the LOC prior to Project ground-disturbing activities. The Applicant shall be responsible for all actual costs for land management and monitoring. The amount of funding assurance provided in the required LOC is currently estimated \$55,264.00, based on the estimated cost to implement the May 27, 2009 Mitigation and Monitoring Plan prepared by the Applicant and approved by the Service and DFG.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of giant garter snake and delta smelt, provided the Applicant implements the Project as described in the BO as Amended, including adherence to and implementation of all measures contained therein; and provided the Applicant complies and implements the mitigation measures and other conditions described in the BO as Amended and the related ITS. If there are any substantive changes to the Project, includ-

ing changes to the mitigation measures, or if the Service amends or replaces the BO as Amended or the ITS, the Applicant shall be required to obtain a new consistency determination or other appropriate take authorization under CESA as provided by the Fish and Game Code. (See generally Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c).)

In making this determination, DFG acknowledges that a concurrence letter from the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) addresses Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), a species designated as threatened under the ESA and CESA (Cal. Code Regs., tit. 14, § 670.5, subd. (b)(2)(C)), and Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), a species designated as endangered under the ESA and CESA (*id.*, § 670.5, subd. (a)(2)(M)). These species are known to occur seasonally within the Project site. The NMFS determined that, for purposes of the ESA, take of individual Central Valley spring-run Chinook salmon and Sacramento River winter-run Chinook salmon is unlikely. This consistency determination is limited to delta smelt and giant garter snake, and no take, as defined by state law, of Central Valley spring-run Chinook salmon or Sacramento River winter-run Chinook salmon is authorized by or otherwise provided by this determination.

DEPARTMENT OF FISH AND GAME

Public Interest Notice PROPOSED RESEARCH ON FULLY PROTECTED SPECIES

Monitor size and age distribution of rough sculpin in the Pit River Sections 3, 4, and 5 FERC #233

The Department of Fish and Game ("Department") received a research proposal from Tim Salamunovich of Normandeau Associates, Inc. requesting authorization to conduct fishery surveys that involve the capturing and handling of rough sculpin (*Cottus asperimus*), a Fully Protected Fish, for research purposes, consistent with the protection and recovery of the species.

The applicant is required to have a Fully Protected Species Memorandum of Understanding (FPSMOU) to take protected species of fish. Permit conditions also require that the holder of a State research MOU obtain special authorization from the Department for research on Fully Protected Species. The applicant has the required State MOU for research in the project area and has applied for a Fully Protected Species Memorandum

of Understanding to permit him to collect the rough sculpin, a Fully Protected Species, in addition to the work outlined in the standard State research MOU already issued.

The proposed research is a continuation of studies that have been conducted by the Pacific Gas and Electric Company required for the Federal Energy Commission relicensing project (FERC 233). The applicant proposes to conduct population studies to determine distribution, abundance and size/age structure of fish species, including rough sculpin in the Pacific Gas & Electric Company's Pit 3, 4, and 5 Project area of the Pit River, California. The FERC 233 Fish Monitoring Plan population studies involve electrofishing, gillnetting, and snorkeling to derive information on fish abundance, size, weight and habitat use. Various methods of collection will be used: experimental gill nets (1.0/1.5/2.0/2.5/ 3.0 inch panel) and electrofishing to support the size and weight data collection for trout populations. Only electrofishing will be used in rough sculpin habitats. If rough sculpin are encountered then a population study will be conducted. In 2002 similar research was conducted in the same project areas and no rough sculpin were encountered. All fishes collected will be identified to species, measured and weighed. All sculpin (including rough sculpin) will be weighed inside containers filled with clean, fresh, river-water and then released. No fish will be removed from the waters. No voucher specimens will be collected.

Only experienced personnel will conduct sampling. The Department intends to issue, under specified conditions, a Fully Protected Species MOU that would authorize the applicant to carry out the proposed activities. Detailed prescriptions for sampling and handling the rough sculpin are included in the applicant's Fully Protected Species MOU. Additional locations and/or methods may be authorized by the Department for future projects.

Pursuant to California Fish and Game Code (FGC) Section 5515(a)(1), the Department may authorize take of Fully Protected Fish after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5515 for take of Fully Protected Fish, it would issue the authorization on or after October 2, 2011 for an initial term of five years. Because the applicant's State research MOU permit expires on Aug. 22, 2011, the validity of the Fully Protected Species MOU after Aug. 22, 2011 is contingent upon successful renewal of the applicant's State research MOU permit.

Contact: Fisheries Branch, Nongame Native Fish Program, 830 S Street, Sacramento, CA 95811, Attn.: Daniel Kratville.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Variances Issued to FOCIL–Mission Bay by Department of Toxic Substances Control

On August 5, 2011, the Department of Toxic Substances Control issued a variance to FOCIL–Mission Bay, LLC. Under the authority of section 25143, chapter 6.5, division 20 of Health and Safety Code, the variance waives hazardous waste manifesting requirements and allows the FOCIL to use bills of lading when transporting hazardous waste soils on specified public roads. The soils handled under this variance must be generated from excavation activities in, and managed within, the 300-acre Mission Bay Area in San Francisco. These soils are considered hazardous waste due to their lead concentrations and remediation of the Mission Bay area is overseen by the San Francisco Regional Water Quality Control Board. Contact: Edward Nieto (916) 322–7893.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (Proposition 65)

NOTICE TO INTERESTED PARTIES September 2, 2011

A CHEMICAL LISTED EFFECTIVE SEPTEMBER 2, 2011 AS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental

Protection Agency is adding *titanium dioxide (airborne, unbound particles of respirable size)* to the list of chemicals known to the State of California to cause cancer for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65¹). The listing does not cover titanium dioxide when it remains bound within a product matrix. The listing of *titanium dioxide (airborne, unbound particles of respirable size)* is effective **September 2, 2011**.

Health and Safety Code section 25249.8(a) incorporates California Labor Code Sections 6382(b)(1) and 6382(d) into Proposition 65. The law requires that certain substances identified by the International Agency for Research on Cancer (IARC) or the National Toxicology Program (NTP) be listed as known to cause cancer under Proposition 65. Labor Code section 6382(b)(1) refers to substances identified as human or animal carcinogens by IARC. Labor Code section 6382(d) refers to substances identified as carcinogens or potential carcinogens by IARC or NTP.

The basis for the listing of *titanium dioxide (airborne, unbound particles of respirable size)* was described in a public notice published in the May 27, 2011, issue of the *California Regulatory Notice Register* (Register 2011, No. 21–Z). The title of the notice was “Notice of Intent to List Titanium Dioxide (Airborne, Unbound Particles of Respirable Size) by the Labor Code Mechanism”. The publication of the notice initiated a 30-day public comment period that closed on June 27, 2011.

A complete, updated Proposition 65 list is published elsewhere in this issue of the *California Regulatory Notice Register* and is available on the OEHHA website at <http://www.oehha.ca.gov/prop65.html>.

Chemical	CASNo.	Toxicological Endpoint	Listing Mechanism ²
Titanium dioxide (airborne, unbound particles of respirable size)	—	cancer	LC

¹ Health and Safety Code, section 25249.5 et seq.

² Listing mechanism: LC — “Labor Code” mechanism (Labor Code sections 6382(b)(1) and (d))

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986

CHEMICALS KNOWN TO THE STATE
TO CAUSE CANCER OR
REPRODUCTIVE TOXICITY
September 2, 2011

The Safe Drinking Water and Toxic Enforcement Act
of 1986 requires that the Governor revise and republish

at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list. For easy reference, chemicals which are shown underlined are newly added. Chemicals which are shown with a strikeout were placed on the list with the date noted, and have subsequently been removed.

CHEMICALS KNOWN TO THE STATE TO CAUSE CANCER

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	26148-68-5	January 1, 1990
Acetaldehyde	75-07-0	April 1, 1988
Acetamide	60-35-5	January 1, 1990
Acetochlor	34256-82-1	January 1, 1989
2-Acetylaminofluorene	53-96-3	July 1, 1987
Acifluorfen sodium	62476-59-9	January 1, 1990
Acrylamide	79-06-1	January 1, 1990
Acrylonitrile	107-13-1	July 1, 1987
Actinomycin D	50-76-0	October 1, 1989
AF-2;[2-(2-furyl)-3-(5-nitro-2-furyl)]acrylamide	3688-53-7	July 1, 1987
Aflatoxins	—	January 1, 1988
Alachlor	15972-60-8	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309-00-2	July 1, 1988
<u>Allylchloride Delisted October 29, 1999</u>	107-05-1	January 1, 1990
2-Aminoanthraquinone	117-79-3	October 1, 1989
p-Aminoazobenzene	60-09-3	January 1, 1990
ortho-Aminoazotoluene	97-56-3	July 1, 1987
4-Aminobiphenyl (4-aminodiphenyl)	92-67-1	February 27, 1987
1-Amino-2,4-dibromoanthraquinone	81-49-2	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	6109-97-3	July 1, 1989
2-Aminofluorene	153-78-6	January 29, 1999
1-Amino-2-methylantraquinone	82-28-0	October 1, 1989
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	712-68-5	July 1, 1987
4-Amino-2-nitrophenol	119-34-6	January 29, 1999
Amitrole	61-82-5	July 1, 1987
Amsacrine	51264-14-3	August 7, 2009
Analgesic mixtures containing phenacetin	—	February 27, 1987
Androstenedione	63-05-8	May 3, 2011
Aniline	62-53-3	January 1, 1990
Aniline hydrochloride	142-04-1	May 15, 1998
ortho-Anisidine	90-04-0	July 1, 1987
ortho-Anisidine hydrochloride	134-29-2	July 1, 1987
Antimony oxide (Antimony trioxide)	1309-64-4	October 1, 1990

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
Anthraquinone	84-65-1	September 28, 2007
Aramite	140-57-8	July 1, 1987
Areca nut	—	February 3, 2006
Aristolochic acids	—	July 9, 2004
Arsenic (inorganic arsenic compounds)	—	February 27, 1987
Asbestos	1332-21-4	February 27, 1987
Auramine	492-80-8	July 1, 1987
Azacitidine	320-67-2	January 1, 1992
Azaserine	115-02-6	July 1, 1987
Azathioprine	446-86-6	February 27, 1987
Azobenzene	103-33-3	January 1, 1990
Benthiavalicarb-isopropyl	177406-68-7	July 1, 2008
Benz[a]anthracene	56-55-3	July 1, 1987
Benzene	71-43-2	February 27, 1987
Benzidine [and its salts]	92-87-5	February 27, 1987
Benzidine-based dyes	—	October 1, 1992
Benzo[b]fluoranthene	205-99-2	July 1, 1987
Benzo[j]fluoranthene	205-82-3	July 1, 1987
Benzo[k]fluoranthene	207-08-9	July 1, 1987
Benzofuran	271-89-6	October 1, 1990
Benzo[a]pyrene	50-32-8	July 1, 1987
Benzotrichloride	98-07-7	July 1, 1987
Benzyl chloride	100-44-7	January 1, 1990
Benzyl violet 4B	1694-09-3	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
Betel quid without tobacco	—	February 3, 2006
2,2-Bis(bromomethyl)-1,3-propanediol	3296-90-0	May 1, 1996
Bis(2-chloroethyl)ether	111-44-4	April 1, 1988
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornapazine)	494-03-1	February 27, 1987
Bischloroethyl nitrosourea (BCNU) (Carmustine)	154-93-8	July 1, 1987
Bis(chloromethyl)ether	542-88-1	February 27, 1987
Bis(2-chloro-1-methylethyl) ether, technical grade	—	October 29, 1999
Bitumens, extracts of steam-refined and air refined	—	January 1, 1990
Bracken fern	—	January 1, 1990
Bromate	15541-45-4	May 31, 2002
Bromochloroacetic acid	5589-96-8	April 6, 2010
Bromodichloromethane	75-27-4	January 1, 1990
Bromoethane	74-96-4	December 22, 2000
Bromoform	75-25-2	April 1, 1991
1,3-Butadiene	106-99-0	April 1, 1988
1,4-Butanediol dimethanesulfonate (Busulfan)	55-98-1	February 27, 1987
Butylated hydroxyanisole	25013-16-5	January 1, 1990
beta-Butyrolactone	3068-88-0	July 1, 1987
Cacodylic acid	75-60-5	May 1, 1996
Cadmium and cadmium compounds	—	October 1, 1987
Caffeic acid	331-39-5	October 1, 1994
Captan	2425-06-1	October 1, 1988
Captan	133-06-2	January 1, 1990
Carbaryl	63-25-2	February 5, 2010
Carbazole	86-74-8	May 1, 1996
Carbon black (airborne, unbound particles of respirable size)	1333-86-4	February 21, 2003
Carbon tetrachloride	56-23-5	October 1, 1987

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Carbon-black extracts	—	January 1, 1990
N-Carboxymethyl-N-nitrosourea	60391-92-6	January 25, 2002
Catechol	120-80-9	July 15, 2003
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990
Certain combined chemotherapy for lymphomas	—	February 27, 1987
Chlorambucil	305-03-3	February 27, 1987
Chloramphenicol	56-75-7	October 1, 1989
Chlordane	57-74-9	July 1, 1988
Chlordecone (Kepone)	143-50-0	January 1, 1988
Chlordimeform	6164-98-3	January 1, 1989
Chlorendic acid	115-28-6	July 1, 1989
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171-26-2	July 1, 1989
p-Chloroaniline	106-47-8	October 1, 1994
p-Chloroaniline hydrochloride	20265-96-7	May 15, 1998
Chlorodibromomethane <u>Delisted October 29, 1999</u>	124-48-1	January 1, 1990
Chloroethane (Ethyl chloride)	75-00-3	July 1, 1990
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU)	13010-47-4	January 1, 1988
(Lomustine)		
1-(2-Chloroethyl)-3-(4-methylcyclohexyl)-1-nitrosourea (Methyl-CCNU)	13909-09-6	October 1, 1988
Chloroform	67-66-3	October 1, 1987
Chloromethyl methyl ether (technical grade)	107-30-2	February 27, 1987
3-Chloro-2-methylpropene	563-47-3	July 1, 1989
1-Chloro-4-nitrobenzene	100-00-5	October 29, 1999
4-Chloro-ortho-phenylenediamine	95-83-0	January 1, 1988
p-Chloro-o-toluidine	95-69-2	January 1, 1990
p-Chloro-o-toluidine, strong acid salts of	—	May 15, 1998
5-Chloro-o-toluidine and its strong acid salts	—	October 24, 1997
Chloroprene	126-99-8	June 2, 2000
Chlorothalonil	1897-45-6	January 1, 1989
Chlorotrianisene	569-57-3	September 1, 1996
Chlorozotocin	54749-90-5	January 1, 1992
Chromium (hexavalent compounds)	—	February 27, 1987
Chrysene	218-01-9	January 1, 1990
C.I. Acid Red 114	6459-94-5	July 1, 1992
C.I. Basic Red 9 monohydrochloride	569-61-9	July 1, 1989
C.I. Direct Blue 15	2429-74-5	August 26, 1997
C.I. Direct Blue 218	28407-37-6	August 26, 1997
C.I. Solvent Yellow 14	842-07-9	May 15, 1998
Ciclosporin (Cyclosporin A; Cyclosporine)	59865-13-3	January 1, 1992
	79217-60-0	
Cidofovir	113852-37-2	January 29, 1999
Cinnamyl anthranilate	87-29-6	July 1, 1989
Cisplatin	15663-27-1	October 1, 1988
Citrus Red No. 2	6358-53-8	October 1, 1989
Clofibrate	637-07-0	September 1, 1996
Cobalt metal powder	7440-48-4	July 1, 1992
Cobalt [II] oxide	1307-96-6	July 1, 1992
Cobalt sulfate	10124-43-3	May 20, 2005
Cobalt sulfate heptahydrate	10026-24-1	June 2, 2000
Coke oven emissions	—	February 27, 1987
Conjugated estrogens	—	February 27, 1987

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
Creosotes	—	October 1, 1988
para-Cresidine	120-71-8	January 1, 1988
Cumene	98-82-8	April 6, 2010
Cupferron	135-20-6	January 1, 1988
Cycasin	14901-08-7	January 1, 1988
Cyclopenta[cd]pyrene	27208-37-3	April 29, 2011
Cyclophosphamide (anhydrous)	50-18-0	February 27, 1987
Cyclophosphamide (hydrated)	6055-19-2	February 27, 1987
Cytembena	21739-91-3	May 15, 1998
D&C Orange No. 17	3468-63-1	July 1, 1990
D&C Red No. 8	2092-56-0	October 1, 1990
D&C Red No. 9	5160-02-1	July 1, 1990
D&C Red No. 19	81-88-9	July 1, 1990
Dacarbazine	4342-03-4	January 1, 1988
Daminozide	1596-84-5	January 1, 1990
Dantron (Chrysazin; 1,8-Dihydroxyanthraquinone)	117-10-2	January 1, 1992
Daunomycin	20830-81-3	January 1, 1988
DDD (Dichlorodiphenyldichloroethane)	72-54-8	January 1, 1989
DDE (Dichlorodiphenyldichloroethylene)	72-55-9	January 1, 1989
DDT (Dichlorodiphenyltrichloroethane)	50-29-3	October 1, 1987
DDVP (Dichlorvos)	62-73-7	January 1, 1989
N,N'-Diacetylbenzidine	613-35-4	October 1, 1989
2,4-Diaminoanisole	615-05-4	October 1, 1990
2,4-Diaminoanisole sulfate	39156-41-7	January 1, 1988
4,4'-Diaminodiphenyl ether (4,4'-Oxydianiline)	101-80-4	January 1, 1988
2,4-Diaminotoluene	95-80-7	January 1, 1988
Diaminotoluene (mixed)	—	January 1, 1990
Diazoaminobenzene	136-35-6	May 20, 2005
Dibenz[a,h]acridine	226-36-8	January 1, 1988
Dibenz[a,j]acridine	224-42-0	January 1, 1988
Dibenz[a,h]anthracene	53-70-3	January 1, 1988
7H-Dibenzo[c,g]carbazole	194-59-2	January 1, 1988
Dibenzo[a,e]pyrene	192-65-4	January 1, 1988
Dibenzo[a,h]pyrene	189-64-0	January 1, 1988
Dibenzo[a,i]pyrene	189-55-9	January 1, 1988
Dibenzo[a,l]pyrene	191-30-0	January 1, 1988
Dibromoacetic acid	631-64-1	June 17, 2008
Dibromoacetonitrile	3252-43-5	May 3, 2011
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	July 1, 1987
2,3-Dibromo-1-propanol	96-13-9	October 1, 1994
Dichloroacetic acid	79-43-6	May 1, 1996
p-Dichlorobenzene	106-46-7	January 1, 1989
3,3'-Dichlorobenzidine	91-94-1	October 1, 1987
3,3'-Dichlorobenzidine dihydrochloride	612-83-9	May 15, 1998
1,4-Dichloro-2-butene	764-41-0	January 1, 1990
3,3'-Dichloro-4,4'-diaminodiphenyl ether	28434-86-8	January 1, 1988
1,1-Dichloroethane	75-34-3	January 1, 1990
Dichloromethane (Methylene chloride)	75-09-2	April 1, 1988
1,2-Dichloropropane	78-87-5	January 1, 1990
1,3-Dichloro-2-propanol (1,3-DCP)	96-23-1	October 8, 2010
1,3-Dichloropropene	542-75-6	January 1, 1989
Diclofop-methyl	51338-27-3	April 6, 2010
Dieldrin	60-57-1	July 1, 1988

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Dienestrol	84-17-3	January 1, 1990
Diepoxybutane	1464-53-5	January 1, 1988
Diesel engine exhaust	—	October 1, 1990
Di(2-ethylhexyl)phthalate	117-81-7	January 1, 1988
1,2-Diethylhydrazine	1615-80-1	January 1, 1988
Diethyl sulfate	64-67-5	January 1, 1988
Diethylstilbestrol (DES)	56-53-1	February 27, 1987
Diglycidyl resorcinol ether (DGRE)	101-90-6	July 1, 1989
Dihydrosafrole	94-58-6	January 1, 1988
Diisopropyl sulfate	2973-10-6	April 1, 1993
3,3'-Dimethoxybenzidine (ortho-Dianisidine)	119-90-4	January 1, 1988
3,3'-Dimethoxybenzidine dihydrochloride (ortho-Dianisidine dihydrochloride)	20325-40-0	October 1, 1990
3,3'-Dimethoxybenzidine-based dyes metabolized to 3,3'-dimethoxybenzidine	—	June 11, 2004
3,3'-Dimethylbenzidine-based dyes metabolized to 3,3'-dimethylbenzidine	—	June 11, 2004
Dimethyl sulfate	77-78-1	January 1, 1988
4-Dimethylaminoazobenzene	60-11-7	January 1, 1988
trans-2-[(Dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)vinyl]-1,3,4-oxadiazole	55738-54-0	January 1, 1988
7,12-Dimethylbenz(a)anthracene	57-97-6	January 1, 1990
3,3'-Dimethylbenzidine (ortho-Tolidine)	119-93-7	January 1, 1988
3,3'-Dimethylbenzidine dihydrochloride	612-82-8	April 1, 1992
Dimethylcarbamoyl chloride	79-44-7	January 1, 1988
1,1-Dimethylhydrazine (UDMH)	57-14-7	October 1, 1989
1,2-Dimethylhydrazine	540-73-8	January 1, 1988
Dimethylvinylchloride	513-37-1	July 1, 1989
3,7-Dinitrofluoranthene	105735-71-5	August 26, 1997
3,9-Dinitrofluoranthene	22506-53-2	August 26, 1997
1,6-Dinitropyrene	42397-64-8	October 1, 1990
1,8-Dinitropyrene	42397-65-9	October 1, 1990
Dinitrotoluene mixture, 2,4-/2,6-	—	May 1, 1996
2,4-Dinitrotoluene	121-14-2	July 1, 1988
2,6-Dinitrotoluene	606-20-2	July 1, 1995
Di-n-propyl isocinchomeronate (MGK Repellent 326)	136-45-8	May 1, 1996
1,4-Dioxane	123-91-1	January 1, 1988
Diphenylhydantoin (Phenytoin)	57-41-0	January 1, 1988
Diphenylhydantoin (Phenytoin), sodium salt	630-93-3	January 1, 1988
Direct Black 38 (technical grade)	1937-37-7	January 1, 1988
Direct Blue 6 (technical grade)	2602-46-2	January 1, 1988
Direct Brown 95 (technical grade)	16071-86-6	October 1, 1988
Disperse Blue 1	2475-45-8	October 1, 1990
Diuron	330-54-1	May 31, 2002
Doxorubicin hydrochloride (Adriamycin)	25316-40-9	July 1, 1987
Epichlorohydrin	106-89-8	October 1, 1987
Epoxiconazole	135319-73-2	April 15, 2011
Erionite	12510-42-8/ 66733-21-9	October 1, 1988
Estradiol 17B	50-28-2	January 1, 1988
Estragole	140-67-0	October 29, 1999
Estrogens, steroidal	—	August 19, 2005
Estrone	53-16-7	January 1, 1988

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Estropipate	7280-37-7	August 26, 1997
Ethanol in alcoholic beverages	—	April 29, 2011
Ethinylestradiol	57-63-6	January 1, 1988
Ethoprop	13194-48-4	February 27, 2001
Ethyl acrylate	140-88-5	July 1, 1989
Ethylbenzene	100-41-4	June 11, 2004
Ethyl methanesulfonate	62-50-0	January 1, 1988
Ethyl-4,4'-dichlorobenzilate	510-15-6	January 1, 1990
Ethylene dibromide	106-93-4	July 1, 1987
Ethylene dichloride (1,2-Dichloroethane)	107-06-2	October 1, 1987
Ethylene oxide	75-21-8	July 1, 1987
Ethylene thiourea	96-45-7	January 1, 1988
Ethyleneimine	151-56-4	January 1, 1988
Fenoxycarb	72490-01-8	June 2, 2000
Folpet	133-07-3	January 1, 1989
Formaldehyde (gas)	50-00-0	January 1, 1988
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	3570-75-0	January 1, 1988
Fumonisin B ₁	116355-83-0	November 14, 2003
Furan	110-00-9	October 1, 1993
Furazolidone	67-45-8	January 1, 1990
Furmecyclox	60568-05-0	January 1, 1990
Fusarin C	79748-81-5	July 1, 1995
Gallium arsenide	1303-00-0	August 1, 2008
Ganciclovir	82410-32-0	August 26, 1997
Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990
Gemfibrozil	25812-30-0	December 22, 2000
Glasswool fibers (airborne particles of respirable size)	—	July 1, 1990
Glu-P-1 (2-Amino-6-methyldipyrido[1,2-a:3',2'-d]imidazole)	67730-11-4	January 1, 1990
Glu-P-2 (2-Aminodipyrido[1,2-a:3',2'-d]imidazole)	67730-10-3	January 1, 1990
Glycidaldehyde	765-34-4	January 1, 1988
Glycidol	556-52-5	July 1, 1990
Griseofulvin	126-07-8	January 1, 1990
Gyromitrin (Acetaldehyde methylformylhydrazone)	16568-02-8	January 1, 1988
HC Blue 1	2784-94-3	July 1, 1989
Heptachlor	76-44-8	July 1, 1988
Heptachlor epoxide	1024-57-3	July 1, 1988
Herbal remedies containing plant species of the genus Aristolochia	—	July 9, 2004
Hexachlorobenzene	118-74-1	October 1, 1987
Hexachlorobutadiene	87-68-3	May 3, 2011
Hexachlorocyclohexane (technical grade)	—	October 1, 1987
Hexachlorodibenzodioxin	34465-46-8	April 1, 1988
Hexachloroethane	67-72-1	July 1, 1990
2,4-Hexadienal (89% trans, trans isomer; 11% cis, trans isomer)	—	March 4, 2005
Hexamethylphosphoramide	680-31-9	January 1, 1988
Hydrazine	302-01-2	January 1, 1988
Hydrazine sulfate	10034-93-2	January 1, 1988
Hydrazobenzene (1,2-Diphenylhydrazine)	122-66-7	January 1, 1988
1-Hydroxyanthraquinone	129-43-1	May 27, 2005
Imazalil	35554-44-0	May 20, 2011
Indeno [1,2,3-cd]pyrene	193-39-5	January 1, 1988
Indium phosphide	22398-80-7	February 27, 2001
IQ (2-Amino-3-methylimidazo[4,5-f]quinoline)	76180-96-6	April 1, 1990

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Iprodione	36734-19-7	May 1, 1996
Iprovalicarb	140923-17-7	June 1, 2007
	140923-25-7	
Iron dextran complex	9004-66-4	January 1, 1988
Isobutyl nitrite	542-56-3	May 1, 1996
Isoprene	78-79-5	May 1, 1996
Isosafrole <u>Delisted December 8, 2006</u>	120-58-1	October 1, 1989
Isoxaflutole	141112-29-0	December 22, 2000
Lactofen	77501-63-4	January 1, 1989
Lasiocarpine	303-34-4	April 1, 1988
Lead acetate	301-04-2	January 1, 1988
Lead and lead compounds	—	October 1, 1992
Lead phosphate	7446-27-7	April 1, 1988
Lead subacetate	1335-32-6	October 1, 1989
Leather dust	—	April 29, 2011
Lindane and other hexachlorocyclohexane isomers	—	October 1, 1989
Lynestrenol	52-76-6	February 27, 2001
Malonaldehyde, sodium salt	24382-04-5	May 3, 2011
Mancozeb	8018-01-7	January 1, 1990
Maneb	12427-38-2	January 1, 1990
Marijuana smoke	—	June 19, 2009
Me-A-alpha-C (2-Amino-3-methyl-9H-pyrido[2,3-b]indole)	68006-83-7	January 1, 1990
Medroxyprogesterone acetate	71-58-9	January 1, 1990
MeIQ(2-Amino-3,4-dimethylimidazo[4,5-f]quinoline)	77094-11-2	October 1, 1994
MeIQx(2-Amino-3,8-dimethylimidazo[4,5-f]quinoxaline)	77500-04-0	October 1, 1994
Melphalan	148-82-3	February 27, 1987
Mepanipyrin	110235-47-7	July 1, 2008
Merphalan	531-76-0	April 1, 1988
Mestranol	72-33-3	April 1, 1988
Metam potassium	137-41-7	December 31, 2010
Metham sodium	137-42-8	November 6, 1998
8-Methoxypsoralen with ultraviolet A therapy	298-81-7	February 27, 1987
5-Methoxypsoralen with ultraviolet A therapy	484-20-8	October 1, 1988
2-Methylaziridine (Propyleneimine)	75-55-8	January 1, 1988
Methylazoxymethanol	590-96-5	April 1, 1988
Methylazoxymethanol acetate	592-62-1	April 1, 1988
Methyl carbamate	598-55-0	May 15, 1998
3-Methylcholanthrene	56-49-5	January 1, 1990
5-Methylchrysene	3697-24-3	April 1, 1988
4,4' -Methylene bis(2-chloroaniline)	101-14-4	July 1, 1987
4,4' -Methylene bis(N,N-dimethyl)benzenamine	101-61-1	October 1, 1989
4,4' -Methylene bis(2-methylaniline)	838-88-0	April 1, 1988
4,4' -Methylenedianiline	101-77-9	January 1, 1988
4,4' -Methylenedianiline dihydrochloride	13552-44-8	January 1, 1988
Methyleugenol	93-15-2	November 16, 2001
Methylhydrazine and its salts	—	July 1, 1992
Methyl iodide	74-88-4	April 1, 1988
4-Methylimidazole	822-36-6	January 7, 2011
Methylmercury compounds	—	May 1, 1996
Methyl methanesulfonate	66-27-3	April 1, 1988
2-Methyl-1-nitroanthraquinone (of uncertain purity)	129-15-7	April 1, 1988
N-Methyl-N' -nitro-N-nitrosoguanidine	70-25-7	April 1, 1988
N-Methylolacrylamide	924-42-5	July 1, 1990

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Methylthiouracil	56-04-2	October 1, 1989
Metiram	9006-42-2	January 1, 1990
Metronidazole	443-48-1	January 1, 1988
Michler's ketone	90-94-8	January 1, 1988
Mirex	2385-85-5	January 1, 1988
Mitomycin C	50-07-7	April 1, 1988
MON 4660 (dichloroacetyl-1-oxa-4-azaspiro(4,5)-decane)	71526-07-3	March 22, 2011
MON 13900 (furalazole)	121776-33-8	March 22, 2011
3-Monochloropropane-1,2-diol (3-MCPD)	96-24-2	October 8, 2010
Monocrotaline	315-22-0	April 1, 1988
5-(Morpholinomethyl)-3-[(5-nitro-furfurylidene)-amino]-2-oxazolidinone	139-91-3	April 1, 1988
Mustard Gas	505-60-2	February 27, 1987
MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone)	77439-76-0	December 22, 2000
Nafenopin	3771-19-5	April 1, 1988
Nalidixic acid	389-08-2	May 15, 1998
Naphthalene	91-20-3	April 19, 2002
1-Naphthylamine	134-32-7	October 1, 1989
2-Naphthylamine	91-59-8	February 27, 1987
Nickel (Metallic)	7440-02-0	October 1, 1989
Nickel acetate	373-02-4	October 1, 1989
Nickel carbonate	3333-67-3	October 1, 1989
Nickel carbonyl	13463-39-3	October 1, 1987
Nickel compounds	—	May 7, 2004
Nickel hydroxide	12054-48-7; 12125-56-3	October 1, 1989
Nickelocene	1271-28-9	October 1, 1989
Nickel oxide	1313-99-1	October 1, 1989
Nickel refinery dust from the pyrometallurgical process	—	October 1, 1987
Nickel subsulfide	12035-72-2	October 1, 1987
Niridazole	61-57-4	April 1, 1988
Nitrapyrin	1929-82-4	October 5, 2005
Nitrilotriacetic acid	139-13-9	January 1, 1988
Nitrilotriacetic acid, trisodium salt monohydrate	18662-53-8	April 1, 1989
5-Nitroacenaphthene	602-87-9	April 1, 1988
5-Nitro-o-anisidine <u>Delisted December 8, 2006</u>	99-59-2	October 1, 1989
o-Nitroanisole	91-23-6	October 1, 1992
Nitrobenzene	98-95-3	August 26, 1997
4-Nitrobiphenyl	92-93-3	April 1, 1988
6-Nitrochrysene	7496-02-8	October 1, 1990
Nitrofen (technical grade)	1836-75-5	January 1, 1988
2-Nitrofluorene	607-57-8	October 1, 1990
Nitrofurazone	59-87-0	January 1, 1990
1-[(5-Nitrofurfurylidene)-amino]-2-imidazolidinone	555-84-0	April 1, 1988
N-[4-(5-Nitro-2-furyl)-2-thiazolyl]acetamide	531-82-8	April 1, 1988
Nitrogen mustard (Mechlorethamine)	51-75-2	January 1, 1988
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	55-86-7	April 1, 1988
Nitrogen mustard N-oxide	126-85-2	April 1, 1988
Nitrogen mustard N-oxide hydrochloride	302-70-5	April 1, 1988
Nitromethane	75-52-5	May 1, 1997
2-Nitropropane	79-46-9	January 1, 1988
1-Nitropyrene	5522-43-0	October 1, 1990
4-Nitropyrene	57835-92-4	October 1, 1990

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
N-Nitrosodi-n-butylamine	924-16-3	October 1, 1987
N-Nitrosodiethanolamine	1116-54-7	January 1, 1988
N-Nitrosodiethylamine	55-18-5	October 1, 1987
N-Nitrosodimethylamine	62-75-9	October 1, 1987
p-Nitrosodiphenylamine	156-10-5	January 1, 1988
N-Nitrosodiphenylamine	86-30-6	April 1, 1988
N-Nitrosodi-n-propylamine	621-64-7	January 1, 1988
N-Nitroso-N-ethylurea	759-73-9	October 1, 1987
3-(N-Nitrosomethylamino)propionitrile	60153-49-3	April 1, 1990
4-(N-Nitrosomethylamino)-1-(3-pyridyl)1-butanone	64091-91-4	April 1, 1990
N-Nitrosomethylethylamine	10595-95-6	October 1, 1989
N-Nitroso-N-methylurea	684-93-5	October 1, 1987
N-Nitroso-N-methylurethane	615-53-2	April 1, 1988
N-Nitrosomethylvinylamine	4549-40-0	January 1, 1988
N-Nitrosomorpholine	59-89-2	January 1, 1988
N-Nitrosornicotine	16543-55-8	January 1, 1988
N-Nitrosopiperidine	100-75-4	January 1, 1988
N-Nitrosopyrrolidine	930-55-2	October 1, 1987
N-Nitrososarcosine	13256-22-9	January 1, 1988
o-Nitrotoluene	88-72-2	May 15, 1998
Norethisterone (Norethindrone)	68-22-4	October 1, 1989
Norethynodrel	68-23-5	February 27, 2001
Ochratoxin A	303-47-9	July 1, 1990
Oil Orange SS	2646-17-5	April 1, 1988
Oral contraceptives, combined	—	October 1, 1989
Oral contraceptives, sequential	—	October 1, 1989
Oryzalin	19044-88-3	September 12, 2008
Oxadiazon	19666-30-9	July 1, 1991
Oxazepam	604-75-1	October 1, 1994
Oxymetholone	434-07-1	January 1, 1988
Oxythioquinox (Chinomethionat)	2439-01-2	August 20, 1999
Palygorskite fibers (> 5µm in length)	12174-11-7	December 28, 1999
Panfuran S	794-93-4	January 1, 1988
Pentachlorophenol	87-86-5	January 1, 1990
Phenacetin	62-44-2	October 1, 1989
Phenazopyridine	94-78-0	January 1, 1988
Phenazopyridine hydrochloride	136-40-3	January 1, 1988
Phenesterin	3546-10-9	July 1, 1989
Phenobarbital	50-06-6	January 1, 1990
Phenolphthalein	77-09-8	May 15, 1998
Phenoxybenzamine	59-96-1	April 1, 1988
Phenoxybenzamine hydrochloride	63-92-3	April 1, 1988
o-Phenylenediamine and its salts	95-54-5	May 15, 1998
Phenyl glycidyl ether	122-60-1	October 1, 1990
Phenylhydrazine and its salts	—	July 1, 1992
o-Phenylphenate, sodium	132-27-4	January 1, 1990
o-Phenylphenol	90-43-7	August 4, 2000
PhiP(2-Amino-1-methyl-6-phenylimidazol[4,5-b]pyridine)	105650-23-5	October 1, 1994
Pirmicarb	23103-98-2	July 1, 2008
Polychlorinated biphenyls	—	October 1, 1989
Polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight)	—	January 1, 1988
Polychlorinated dibenzo-p-dioxins	—	October 1, 1992

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Polychlorinated dibenzofurans	—	October 1, 1992
Polygeenan	53973-98-1	January 1, 1988
Ponceau MX	3761-53-3	April 1, 1988
Ponceau 3R	3564-09-8	April 1, 1988
Potassium bromate	7758-01-2	January 1, 1990
Pirimicarb	23103-98-2	July 1, 2008
Primidone	125-33-7	August 20, 1999
Procarbazine	671-16-9	January 1, 1988
Procarbazine hydrochloride	366-70-1	January 1, 1988
Procymidone	32809-16-8	October 1, 1994
Progesterone	57-83-0	January 1, 1988
Pronamide	23950-58-5	May 1, 1996
Propachlor	1918-16-7	February 27, 2001
1,3-Propane sultone	1120-71-4	January 1, 1988
Propargite	2312-35-8	October 1, 1994
beta-Propiolactone	57-57-8	January 1, 1988
Propoxur	114-26-1	August 11, 2006
Propylene glycol mono- <i>t</i> -butyl ether	57018-52-7	June 11, 2004
Propylene oxide	75-56-9	October 1, 1988
Propylthiouracil	51-52-5	January 1, 1988
Pymetrozine	123312-89-0	March 22, 2011
Pyridine	110-86-1	May 17, 2002
Quinoline and its strong acid salts	—	October 24, 1997
Radionuclides	—	July 1, 1989
Reserpine	50-55-5	October 1, 1989
Residual (heavy) fuel oils	—	October 1, 1990
Resmethrin	10453-86-8	July 1, 2008
Riddelliine	23246-96-0	December 3, 2004
Saccharin <u>Delisted April 6, 2001</u>	81-07-2	October 1, 1989
Saccharin, sodium <u>Delisted January 17, 2003</u>	128-44-9	January 1, 1988
Safrole	94-59-7	January 1, 1988
Salted fish, Chinese-style	—	April 29, 2011
Selenium sulfide	7446-34-6	October 1, 1989
Shale-oils	68308-34-9	April 1, 1990
Silica, crystalline (airborne particles of respirable size)	—	October 1, 1988
Soots, tars, and mineral oils (untreated and mildly treated oils and used engine oils)	—	February 27, 1987
Spirodiclofen	148477-71-8	October 8, 2010
Spironolactone	52-01-7	May 1, 1997
Stanozolol	10418-03-8	May 1, 1997
Sterigmatocystin	10048-13-2	April 1, 1988
Streptozotocin (streptozocin)	18883-66-4	January 1, 1988
Strong inorganic acid mists containing sulfuric acid	—	March 14, 2003
Styrene oxide	96-09-3	October 1, 1988
Sulfallate	95-06-7	January 1, 1988
Sulfasalazine (Salicylazosulfapyridine)	599-79-1	May 15, 1998
Talc containing asbestiform fibers	—	April 1, 1990
Tamoxifen and its salts	10540-29-1	September 1, 1996
Terrazole	2593-15-9	October 1, 1994
Testosterone and its esters	58-22-0	April 1, 1988
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	1746-01-6	January 1, 1988
1,1,2,2-Tetrachloroethane	79-34-5	July 1, 1990
Tetrachloroethylene (Perchloroethylene)	127-18-4	April 1, 1988

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
p-a,a,a-Tetrachlorotoluene	5216-25-1	January 1, 1990
Tetrafluoroethylene	116-14-3	May 1, 1997
Tetranitromethane	509-14-8	July 1, 1990
Thioacetamide	62-55-5	January 1, 1988
4,4' -Thiodianiline	139-65-1	April 1, 1988
Thiodicarb	59669-26-0	August 20, 1999
Thiouracil	141-90-2	June 11, 2004
Thiourea	62-56-6	January 1, 1988
Thorium dioxide	1314-20-1	February 27, 1987
<u>Titanium dioxide (airborne, unbound particles of respirable size)</u>	—	<u>September 2, 2011</u>
Tobacco, oral use of smokeless products	—	April 1, 1988
Tobacco smoke	—	April 1, 1988
Toluene diisocyanate	26471-62-5	October 1, 1989
ortho-Toluidine	95-53-4	January 1, 1988
ortho-Toluidine hydrochloride	636-21-5	January 1, 1988
<u>para-Toluidine Delisted October 29, 1999</u>	<u>106-49-0</u>	<u>January 1, 1990</u>
Toxaphene (Polychlorinated camphenes)	8001-35-2	January 1, 1988
Toxins derived from <i>Fusarium moniliforme</i> (<i>Fusarium verticillioides</i>)	—	August 7, 2009
Treosulfan	299-75-2	February 27, 1987
S,S,S-Tributyl phosphorotrithioate (Tribufos, DEF)	78-48-8	February 25, 2011
Trichlormethine (Trimustine hydrochloride)	817-09-4	January 1, 1992
Trichloroethylene	79-01-6	April 1, 1988
2,4,6-Trichlorophenol	88-06-2	January 1, 1988
1,2,3-Trichloropropane	96-18-4	October 1, 1992
Trimethyl phosphate	512-56-1	May 1, 1996
2,4,5-Trimethylaniline and its strong acid salts	—	October 24, 1997
2,4,6-Trinitrotoluene (TNT)	118-96-7	December 19, 2008
Triphenyltin hydroxide	76-87-9	July 1, 1992
<u>Tris(aziridinyl)-para-benzoquinone (Triaziquone)</u> <u>Delisted December 8, 2006</u>	<u>68-76-8</u>	<u>October 1, 1989</u>
Tris(1-aziridinyl)phosphine sulfide (Thiotepa)	52-24-4	January 1, 1988
Tris(2-chloroethyl) phosphate	115-96-8	April 1, 1992
Tris(2,3-dibromopropyl)phosphate	126-72-7	January 1, 1988
Trp-P-1 (Tryptophan-P-1)	62450-06-0	April 1, 1988
Trp-P-2 (Tryptophan-P-2)	62450-07-1	April 1, 1988
Trypan blue (commercial grade)	72-57-1	October 1, 1989
Unleaded gasoline (wholly vaporized)	—	April 1, 1988
Uracil mustard	66-75-1	April 1, 1988
Urethane (Ethyl carbamate)	51-79-6	January 1, 1988
Vanadium pentoxide (orthorhombic crystalline form)	1314-62-1	February 11, 2005
Vinclozolin	50471-44-8	August 20, 1999
Vinyl bromide	593-60-2	October 1, 1988
Vinyl chloride	75-01-4	February 27, 1987
4-Vinylcyclohexene	100-40-3	May 1, 1996
4-Vinyl-1-cyclohexene diepoxide (Vinyl cyclohexene dioxide)	106-87-6	July 1, 1990
Vinyl fluoride	75-02-5	May 1, 1997
Vinyl trichloride (1,1,2-Trichloroethane)	79-00-5	October 1, 1990
Wood dust	—	December 18, 2009
2,6-Xylidine (2,6-Dimethylaniline)	87-62-7	January 1, 1991
Zalcitabine	7481-89-2	August 7, 2009
Zidovudine (AZT)	30516-87-1	December 18, 2009

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
Zileuton	111406-87-2	December 22, 2000
Zineb <u>Delisted October 29, 1999</u>	12122-67-7	January 1, 1990

CHEMICALS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Acetazolamide	developmental	59-66-5	August 20, 1999
Acetohydroxamic acid	developmental	546-88-3	April 1, 1990
Acrylamide	developmental, male	79-06-1	February 25, 2011
Actinomycin D	developmental	50-76-0	October 1, 1992
All-trans retinoic acid	developmental	302-79-4	January 1, 1989
Alprazolam	developmental	28981-97-7	July 1, 1990
Altretamine	developmental, male	645-05-6	August 20, 1999
Amantadine hydrochloride	developmental	665-66-7	February 27, 2001
Amikacin sulfate	developmental	39831-55-5	July 1, 1990
Aminoglutethimide	developmental	125-84-8	July 1, 1990
tert-Amyl methyl ether	developmental	994-05-8	December 18, 2009
Aminoglycosides	developmental	—	October 1, 1992
Aminopterin	developmental, female	54-62-6	July 1, 1987
Amiodarone hydrochloride	developmental, female, male	19774-82-4	August 26, 1997
Amitraz	developmental	33089-61-1	March 30, 1999
Amoxapine	developmental	14028-44-5	May 15, 1998
Anabolic steroids	female, male	—	April 1, 1990
Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
Anisindione	developmental	117-37-3	October 1, 1992
Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50-78-2	July 1, 1990
Atenolol	developmental	29122-68-7	August 26, 1997
Auranofin	developmental	34031-32-8	January 29, 1999
Avermectin B1 (Abamectin)	developmental	71751-41-2	December 3, 2010
Azathioprine	developmental	446-86-6	September 1, 1996
Barbiturates	developmental	—	October 1, 1992
Beclomethasone dipropionate	developmental	5534-09-8	May 15, 1998
Benomyl	developmental, male	17804-35-2	July 1, 1991
Benzene	developmental, male	71-43-2	December 26, 1997
Benzodiazepines	developmental	—	October 1, 1992
Benzphetamine hydrochloride	developmental	5411-22-3	April 1, 1990
Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154-93-8	July 1, 1990
Bromacil lithium salt	developmental male	53404-19-6	May 18, 1999
1-Bromopropane	developmental, female, male	106-94-5	January 17, 2003
2-Bromopropane	female, male	75-26-3	December 7, 2004
Bromoxynil	developmental	1689-84-5	May 31, 2005
			October 1, 1990

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Bromoxynil octanoate	developmental	1689-99-2	May 18, 1999
Butabarbital sodium	developmental	143-81-7	October 1, 1992
1,3-Butadiene	developmental, female, male	106-99-0	April 16, 2004
1,4-Butanediol dimethane-sulfonate (Busulfan)	developmental	55-98-1	January 1, 1989
Butyl benzyl phthalate (BBP)	developmental	85-68-7	December 2, 2005
n-Butyl glycidyl ether	male	2426-08-6	August 7, 2009
Cadmium	developmental, male	—	May 1, 1997
Carbamazepine	developmental	298-46-4	January 29, 1999
Carbaryl	developmental, male	63-25-2	August 7, 2009
Carbon disulfide	developmental, female, male	75-15-0	July 1, 1989
Carbon monoxide	developmental	630-08-0	July 1, 1989
Carboplatin	developmental	41575-94-4	July 1, 1990
Chenodiol	developmental	474-25-9	April 1, 1990
Chlorambucil	developmental	305-03-3	January 1, 1989
Chlorcyclizine hydrochloride	developmental	1620-21-9	July 1, 1987
Chlordecone (Kepone)	developmental	143-50-0	January 1, 1989
Chlordiazepoxide	developmental	58-25-3	January 1, 1992
Chlordiazepoxide hydrochloride	developmental	438-41-5	January 1, 1992
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	developmental	13010-47-4	July 1, 1990
Chloroform	developmental	67-66-3	August 7, 2009
2-Chloropropionic acid	male	598-78-7	August 7, 2009
Chlorsulfuron	developmental, female, male	64902-72-3	May 14, 1999
Chromium (hexavalent compounds)	developmental, female, male	—	December 19, 2008
Cidofovir	developmental, female, male	113852-37-2	January 29, 1999
Cladribine	developmental	4291-63-8	September 1, 1996
Clarithromycin	developmental	81103-11-9	May 1, 1997
Clobetasol propionate	developmental, female	25122-46-7	May 15, 1998
Clomiphene citrate	developmental	50-41-9	April 1, 1990
Clorazepate dipotassium	developmental	57109-90-7	October 1, 1992
Cocaine	developmental, female	50-36-2	July 1, 1989
Codeine phosphate	developmental	52-28-8	May 15, 1998
Colchicine	developmental, male	64-86-8	October 1, 1992
Conjugated estrogens	developmental	—	April 1, 1990
Cyanazine	developmental	21725-46-2	April 1, 1990
Cycloate	developmental	1134-23-2	March 19, 1999
Cyclohexanol	male	108-93-0	November 6, 1998
<u>Delisted January 25, 2002</u>			
Cycloheximide	developmental	66-81-9	January 1, 1989
Cyclophosphamide (anhydrous)	developmental, female, male	50-18-0	January 1, 1989
phosphamide (hydrated)	developmental, female, male	6055-19-2	January 1, 1989
Cyhexatin	developmental	13121-70-5	January 1, 1989
Cytarabine	developmental	147-94-4	January 1, 1989
Dacarbazine	developmental	4342-03-4	January 29, 1989
Danazol	developmental	17230-88-5	April 1, 1990
Daunorubicin hydrochloride	developmental	23541-50-6	July 1, 1990
2,4-D butyric acid	developmental, male	94-82-6	June 18, 1999
o,p' -DDT	developmental, female, male	789-02-6	May 15, 1998
p,p' -DDT	developmental, female, male	50-29-3	May 15, 1998

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
2,4-DP (dichloroprop) <u>Delisted January 25, 2002</u>	developmental	120-36-5	April 27, 1999
Demeclocycline hydrochloride (internal use)	developmental	64-73-3	January 1, 1992
Diazepam	developmental	439-14-5	January 1, 1992
Diazoxide	developmental	364-98-7	February 27, 2001
1,2-Dibromo-3-chloropropane (DBCP)	male	96-12-8	February 27, 1987
Di-n-butyl phthalate (DBP)	developmental, female, male	84-74-2	December 2, 2005
Dichloroacetic acid	male	79-43-6	August 7, 2009
1,1-Dichloro-2,2-bis(p-chlorophenyl) ethylene (DDE)	developmental, male	72-55-9	March 30, 2010
Dichlorophene	developmental	97-23-4	April 27, 1999
Dichlorophenamide	developmental	120-97-8	February 27, 2001
Diclofop methyl	developmental	51338-27-3	March 5, 1999
Dicumarol	developmental	66-76-2	October 1, 1992
Di(2-ethylhexyl)phthalate (DEHP)	developmental, male	117-81-7	October 24, 2003
Diethylstilbestrol (DES)	developmental	56-53-1	July 1, 1987
Diflunisal	developmental, female	22494-42-4	January 29, 1999
Diglycidyl ether	male	2238-07-5	August 7, 2009
Di-n-hexyl phthalate (DnHP)	female, male	84-75-3	December 2, 2005
Dihydroergotamine mesylate	developmental	6190-39-2	May 1, 1997
Di-isodecyl phthalate (DIDP)	developmental	68515-49-1/ 26761-40-0	April 20, 2007
Diltiazem hydrochloride	developmental	33286-22-5	February 27, 2001
N,N-Dimethylacetamide	developmental	127-19-5	May 21, 2010
m-Dinitrobenzene	male	99-65-0	July 1, 1990
o-Dinitrobenzene	male	528-29-0	July 1, 1990
p-Dinitrobenzene	male	100-25-4	July 1, 1990
2,4-Dinitrotoluene	male	121-14-2	August 20, 1999
2,6-Dinitrotoluene	male	606-20-2	August 20, 1999
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999
Dinocap	developmental	39300-45-3	April 1, 1990
Dinoseb	developmental, male	88-85-7	January 1, 1989
Diphenylhydantoin (Phenytoin)	developmental	57-41-0	July 1, 1987
Disodium cyanodithioimidocarbonate	developmental	138-93-2	March 30, 1999
Doxorubicin hydrochloride (Adriamycin)	developmental, male	25316-40-9	January 29, 1999
Doxycycline (internal use)	developmental	564-25-0	July 1, 1990
Doxycycline calcium (internal use)	developmental	94088-85-4	January 1, 1992
Doxycycline hyclate (internal use)	developmental	24390-14-5	October 1, 1991
Doxycycline monohydrate (internal use)	developmental	17086-28-1	October 1, 1991
Endrin	developmental	72-20-8	May 15, 1998
Environmental tobacco smoke (ETS)	developmental	—	June 9, 2006
Epichlorohydrin	male	106-89-8	September 1, 1996
Ergotamine tartrate	developmental	379-79-3	April 1, 1990
Estropipate	developmental	7280-37-7	August 26, 1997
Ethionamide	developmental	536-33-4	August 26, 1997
Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Ethyl-tert-butyl ether	male	637-92-3	December 18, 2009
Ethyl dipropylthiocarbamate	developmental	759-94-4	April 27, 1999

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Ethylene dibromide	developmental, male	106-93-4	May 15, 1998
Ethylene glycol monoethyl ether	developmental, male	110-80-5	January 1, 1989
Ethylene glycol monomethyl ether	developmental, male	109-86-4	January 1, 1989
Ethylene glycol monoethyl ether acetate	developmental, male	111-15-9	January 1, 1993
Ethylene glycol monomethyl ether acetate	developmental, male	110-49-6	January 1, 1993
Ethylene oxide	female	75-21-8	February 27, 1987
	developmental, male		August 7, 2009
Ethylene thiourea	developmental	96-45-7	January 1, 1993
2-Ethylhexanoic acid	developmental	149-57-5	August 7, 2009
Etodolac	developmental, female	41340-25-4	August 20, 1999
Etoposide	developmental	33419-42-0	July 1, 1990
Etretinate	developmental	54350-48-0	July 1, 1987
Fenoxaprop ethyl	developmental	66441-23-4	March 26, 1999
Filgrastim	developmental	121181-53-1	February 27, 2001
Fluazifop butyl	developmental	69806-50-4	November 6, 1998
Flunisolide	developmental, female	3385-03-3	May 15, 1998
Fluorouracil	developmental	51-21-8	January 1, 1989
Fluoxymesterone	developmental	76-43-7	April 1, 1998
Flurazepam hydrochloride	developmental	1172-18-5	October 1, 1992
Flurbiprofen	developmental, female	5104-49-4	August 20, 1999
Flutamide	developmental	13311-84-7	July 1, 1990
Fluticasone propionate	developmental	80474-14-2	May 15, 1998
Fluvalinate	developmental	69409-94-5	November 6, 1998
Ganciclovir	developmental, male	82410-32-0	August 26, 1997
Ganciclovir sodium	developmental, male	107910-75-8	August 26, 1997
Gemfibrozil	female, male	25812-30-0	August 20, 1999
Goserelin acetate	developmental, female, male	65807-02-5	August 26, 1997
Halazepam	developmental	23092-17-3	July 1, 1990
Halobetasol propionate	developmental	66852-54-8	August 20, 1999
Haloperidol	developmental, female	52-86-8	January 29, 1999
Halothane	developmental	151-67-7	September 1, 1996
Heptachlor	developmental	76-44-8	August 20, 1999
Hexachlorobenzene	developmental	118-74-1	January 1, 1989
Hexafluoroacetone	male	684-16-2	August 1, 2008
Hexamethylphosphoramide	male	680-31-9	October 1, 1994
Histrelin acetate	developmental	—	May 15, 1998
Hydramethylnon	developmental, male	67485-29-4	March 5, 1999
Hydroxyurea	developmental	127-07-1	May 1, 1997
Idarubicin hydrochloride	developmental, male	57852-57-0	August 20, 1999
Ifosfamide	developmental	3778-73-2	July 1, 1990
Iodine-131	developmental	10043-66-0	January 1, 1989
Isotretinoin	developmental	4759-48-2	July 1, 1987
Lead	developmental, female, male	—	February 27, 1987
Leuprolide acetate	developmental, female, male	74381-53-6	August 26, 1997
Levodopa	developmental	59-92-7	January 29, 1999
Levonorgestrel implants	female	797-63-7	May 15, 1998
Linuron	developmental	330-55-2	March 19, 1999
Lithium carbonate	developmental	554-13-2	January 1, 1991
Lithium citrate	developmental	919-16-4	January 1, 1991
Lorazepam	developmental	846-49-1	July 1, 1990
Lovastatin	developmental	75330-75-5	October 1, 1992

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Mebendazole	developmental	31431-39-7	August 20, 1999
Medroxyprogesterone acetate	developmental	71-58-9	April 1, 1990
Megestrol acetate	developmental	595-33-5	January 1, 1991
Melphalan	developmental	148-82-3	July 1, 1990
Menotropins	developmental	9002-68-0	April 1, 1990
Meprobamate	developmental	57-53-4	January 1, 1992
Mercaptopurine	developmental	6112-76-1	July 1, 1990
Mercury and mercury compounds	developmental	—	July 1, 1990
Methacycline hydrochloride	developmental	3963-95-9	January 1, 1991
Metham sodium	developmental	137-42-8	May 15, 1998
Methazole	developmental	20354-26-1	December 1, 1999
Methimazole	developmental	60-56-0	July 1, 1990
Methotrexate	developmental	59-05-2	January 1, 1989
Methotrexate sodium	developmental	15475-56-6	April 1, 1990
Methyl bromide as a structural fumigant	developmental	74-83-9	January 1, 1993
Methyl chloride	developmental male	74-87-3	March 10, 2000 August 7, 2009
Methyl n-butyl ketone	male	591-78-6	August 7, 2009
Methyl isocyanate (MIC)	developmental, female	624-83-9	November 12, 2010
Methyl mercury	developmental	—	July 1, 1987
N-Methylpyrrolidone	developmental	872-50-4	June 15, 2001
α -Methyl styrene	female	98-83-9	July 29, 2011
Methyltestosterone	developmental	58-18-4	April 1, 1990
Metiram	developmental	9006-42-2	March 30, 1999
Midazolam hydrochloride	developmental	59467-96-8	July 1, 1990
Minocycline hydrochloride (internal use)	developmental	13614-98-7	January 1, 1992
Misoprostol	developmental	59122-46-2	April 1, 1990
Mitoxantrone hydrochloride	developmental	70476-82-3	July 1, 1990
Molinate	developmental, female, male	2212-67-1	December 11, 2009
Myclobutanil	developmental, male	88671-89-0	April 16, 1999
Nabam	developmental	142-59-6	March 30, 1999
Nafarelin acetate	developmental	86220-42-0	April 1, 1990
Neomycin sulfate (internal use)	developmental	1405-10-3	October 1, 1992
Netilmicin sulfate	developmental	56391-57-2	July 1, 1990
Nickel carbonyl	developmental	13463-39-3	September 1, 1996
Nicotine	developmental	54-11-5	April 1, 1990
Nifedipine	developmental, female, male	21829-25-4	January 29, 1999
Nimodipine	developmental	66085-59-4	April 24, 2001
Nitrapyrin	developmental	1929-82-4	March 30, 1999
Nitrobenzene	male	98-95-3	March 30, 2010
Nitrofurantoin	male	67-20-9	April 1, 1991
Nitrogen mustard (Mechlorethamine)	developmental	51-75-2	January 1, 1989
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	developmental	55-86-7	July 1, 1990
Nitrous oxide	developmental	10024-97-2	August 1, 2008
Norethisterone (Norethindrone)	developmental	68-22-4	April 1, 1990
Norethisterone acetate (Norethindrone acetate)	developmental	51-98-9	October 1, 1991
Norethisterone (Norethindrone) /Ethinyl estradiol	developmental	68-22-4/ 57-63-6	April 1, 1990

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Norethisterone (Norethindrone)/Mestranol	developmental	68-22-4/ 72-33-3	April 1, 1990
Norgestrel	developmental	6533-00-2	April 1, 1990
Oxadiazon	developmental	19666-30-9	May 15, 1998
Oxazepam	developmental	604-75-1	October 1, 1992
p,p'-Oxybis(benzenesulfonyl hydrazide)	developmental	80-51-3	August 7, 2009
Oxydemeton methyl	female, male	301-12-2	November 6, 1998
Oxymetholone	developmental	434-07-1	May 1, 1997
Oxytetracycline (internal use)	developmental	79-57-2	January 1, 1991
Oxytetracycline hydrochloride (internal use)	developmental	2058-46-0	October 1, 1991
Oxythioquinox (Chinomethionat)	developmental	2439-01-2	November 6, 1998
Paclitaxel	developmental, female, male	33069-62-4	August 26, 1997
Paramethadione	developmental	115-67-3	July 1, 1990
Penicillamine	developmental	52-67-5	January 1, 1991
Pentobarbital sodium	developmental	57-33-0	July 1, 1990
Pentostatin	developmental	53910-25-1	September 1, 1996
Phenacemide	developmental	63-98-9	July 1, 1990
Phenprocoumon	developmental	435-97-2	October 1, 1992
Phenyl glycidyl ether	male	122-60-1	August 7, 2009
Phenylphosphine	developmental	638-21-1	August 7, 2009
Pimozide	developmental, female	2062-78-4	August 20, 1999
Pipobroman	developmental	54-91-1	July 1, 1990
Plicamycin	developmental	18378-89-7	April 1, 1990
Polybrominated biphenyls	developmental	—	October 1, 1994
Polychlorinated biphenyls	developmental	—	January 1, 1991
Potassium dimethyldithiocarbamate	developmental	128-03-0	March 30 1999
Pravastatin sodium	developmental	81131-70-6	March 3, 2000
Prednisolone sodium phosphate	developmental	125-02-0	August 20, 1999
Procarbazine hydrochloride	developmental	366-70-1	July 1, 1990
Propargite	developmental	2312-35-8	June 15, 1999
Propylthiouracil	developmental	51-52-5	July 1, 1990
Pyrimethamine	developmental	58-14-0	January 29, 1999
Quazepam	developmental	36735-22-5	August 26, 1997
Quizalofop-ethyl	male	76578-14-8	December 24, 1999
Resmethrin	developmental	10453-86-8	November 6, 1998
Retinol/retinyl esters, when in daily dosages in excess of 10,000 IU, or 3,000 retinol equivalents. (NOTE: Retinol/ retinyl esters are required and essential for maintenance of normal reproductive function. The recommended daily level during pregnancy is 8,000 IU.)	developmental	—	July 1, 1989
Ribavirin	developmental male	36791-04-5 36791-04-5	April 1, 1990 February 27, 2001
Rifampin	developmental, female	13292-46-1	February 27, 2001
Secobarbital sodium	developmental	309-43-3	October 1, 1992
Sermorelin acetate	developmental	—	August 20, 1999
Sodium dimethyldithiocarbamate	developmental	128-04-1	March 30 1999
Sodium fluoroacetate	male	62-74-8	November 6, 1998
Streptomycin sulfate	developmental	3810-74-0	January 1, 1991

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Streptozocin (streptozotocin)	developmental, female, male	18883-66-4	August 20, 1999
Sulfasalazine (Salicylazosulfapyridine)	male	599-79-1	January 29, 1999
Sulfur s]dioxide	developmental	7446-09-5	July 29, 2011
Sulindac	developmental, female	38194-50-2	January 29, 1999
Tamoxifen citrate	developmental	54965-24-1	July 1, 1990
Temazepam	developmental	846-50-4	April 1, 1990
Teniposide	developmental	29767-20-2	September 1, 1996
Terbacil	developmental	5902-51-2	May 18, 1999
Testosterone cypionate	developmental	58-20-8	October 1, 1991
Testosterone enanthate	developmental	315-37-7	April 1, 1990
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	developmental	1746-01-6	April 1, 1991
Tetracycline (internal use)	developmental	60-54-8	October 1, 1991
Tetracyclines (internal use)	developmental	—	October 1, 1992
Tetracycline hydrochloride (internal use)	developmental	64-75-5	January 1, 1991
Thalidomide	developmental	50-35-1	July 1, 1987
Thioguanine	developmental	154-42-7	July 1, 1990
Thiophanate methyl	female, male	23564-05-8	May 18, 1999
Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Tobramycin sulfate	developmental	49842-07-1	July 1, 1990
Toluene	developmental female	108-88-3	January 1, 1991 August 7, 2009
Triadimefon	developmental, female, male	43121-43-3	March 30, 1999
Triazolam	developmental	28911-01-5	April 1, 1990
Tributyltin methacrylate	developmental	2155-70-6	December 1, 1999
Trientine hydrochloride	developmental	38260-01-4	February 27, 2001
Triforine	developmental	26644-46-2	June 18, 1999
1,3,5-Triglycidyl-s-triazinetriene	male	2451-62-9	August 7, 2009
Trilostane	developmental	13647-35-3	April 1, 1990
Trimethadione	developmental	127-48-0	January 1, 1991
Trimetrexate glucuronate	developmental	82952-64-5	August 26, 1997
Triphenyltin hydroxide	developmental	76-87-9	March 18, 2002
Uracil mustard	developmental, female, male	66-75-1	January 1, 199
Urethane	developmental	51-79-6	October 1, 1994
Urofollitropin	developmental	97048-13-0	April 1, 1990
Valproate (Valproic acid)	developmental	99-66-1	July 1, 1987
Vinblastine sulfate	developmental	143-67-9	July 1, 1990
Vinclozolin	developmental	50471-44-8	May 15, 1998
Vincristine sulfate	developmental	2068-78-2	July 1, 1990
4-Vinylcyclohexene	female, male	100-40-03	August 7, 2009
Vinyl cyclohexene dioxide (4-Vinyl-1-cyclohexene diepoxide)	female, male	106-87-6	August 1, 2008
Warfarin	developmental	81-81-2	July 1, 1987
Zileuton	developmental, female	111406-87-2	December 22, 2000

Date: September 2, 2011

DECISION NOT TO PROCEED

DEPARTMENT OF PESTICIDE REGULATION

NOTICE OF DECISION NOT TO PROCEED

Office of Administrative Law Notice File Number:
Z-2011-0509-01

Continuing Education Records and Course Approval
Department of Pesticide Regulation Reference
Number 11-003

Pursuant to Government Code section 11347, the Department of Pesticide Regulation hereby gives notice that it has decided not to proceed with the proposed regulatory action published in the California Regulatory Notice Register (CRNR) on May 20, 2011 (CRNR 2011, No. 20-Z, page 805, Notice File No. Z2011-0509-01) pertaining to continuing education records and course approval.

DPR will also publish this Notice of Decision Not to Proceed on the Department's Web site at <<http://www.cdpr.ca.gov>>.

OAL REGULATORY DETERMINATIONS

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATION (Summary Disposition)

(Pursuant to Government Code Section 11340.5
and Title 1, section 270, of the
California Code of Regulations)

The attachments are not being printed for practical reasons or space consideration. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: August 18, 2011
To: Robert Cavalier
From: Chapter Two Compliance Unit
Subject: **2011 OAL DETERMINATION NO. 15(S)**
(CTU2011-0711-01)

(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs. tit. 1, sec. 270(f))

Petition challenging as an underground regulation language in Operational Procedure #623

On July 11, 2011, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether one paragraph of Operational Procedure (OP) #623 constitutes an underground regulation. The language you challenge is designated as paragraph 623.6.4 and is on page 7 of the 15-page OP #623. Paragraph 623.6.4 deals with access to the main exercise yard. OP #623 was issued by California State Prison, Los Angeles County and page 7, the only page you submitted, is attached hereto as Exhibit A.¹

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600,² which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).³ Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

¹OAL is printing the copy of page 7 of OP #623 as you submitted it, including your annotations. We make no determination on the accuracy or relevance of your annotations.

²"Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

³Such a rule is called an "underground regulation" as defined in California Code of Regulations, title 1, section 250, subsection (a):

"Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

(1) Rules issued by the director applying solely to a particular prison or other correctional facility

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rule challenged by your petition was issued by California State Prison, Los Angeles County and applies solely to the inmates of California State Prison, Los Angeles County. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.⁴

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/

Debra M. Cornez

Assistant Chief Counsel/Acting Director

⁴The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) **An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** [Emphasis added.]

/s/

Kathleen Eddy

Senior Counsel

Copy: Matthew Cate

Tim Lockwood

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: August 11, 2011

To: Dwayne Harvest

From: Chapter Two Compliance Unit

Subject: **2011 OAL DETERMINATION NO. 14(S)**
(CTU2011-0701-01)

(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation Memorandum Titled “Process Change of Inmate Mail Collection and Medical 7362”

On July 1, 2011, we received your petition to the Office of Administrative Law (OAL) asking for a determination as to whether a memorandum titled “Process Change of Inmate Mail Collections and Medical 7362” (memorandum) constitutes an underground regulation. The memorandum changes the way Inmate Outgoing Mail is processed in the Level II and III housing units at California State Prison, Solano. The memorandum was issued on May 20, 2011, by the warden at the California State Prison, Solano, and is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment.

¹“Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

“Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

. . .

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the memorandum challenged by your petition was issued by the warden of California State Prison, Solano, and applies solely to the inmates of California State Prison, Solano. Therefore, the memorandum is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.³

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

³The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(Continued next column)

/s/

Debra M. Cornez
Assistant Chief Counsel
Acting Director

/s/

Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2011-0802-01

BOARD OF BARBERING AND COSMETOLOGY
Administrative Fine Schedule

In this regulatory action, the Board of Barbering and Cosmetology (Board) amends its regulation entitled “Schedule of Administrative Fines.” This regulation sets forth the administrative fines which may be assessed for violations of specified sections of the Barbering and Cosmetology Act and for violations of specified rules and regulations adopted by the Board, pursuant to Business and Professions Code sections 7406 and 7407.

Title 16

California Code of Regulations

AMEND: 974

Filed 08/17/2011

Effective 09/16/2011

Agency Contact: Kevin Flanagan (916) 575-7104

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.

[Emphasis added.]

File# 2011-0720-01

**BOARD OF BARBERING AND COSMETOLOGY
Building Standards**

This Section 100 action corrects an incorrect cross-reference to Title 24 building standards governing public toilet requirements for haircutting establishments and schools.

Title 16

California Code of Regulations

AMEND: 995

Filed 08/18/2011

Agency Contact: Kevin Flanagan (916) 575-7104

File# 2011-0712-01

**DEPARTMENT OF FOOD AND AGRICULTURE
Direct Marketing**

The Department of Food and Agriculture adopted section 1392.4.1 and amended sections 1392, 1392.1, 1392.2, 1392.4, 1392.6, 1392.8.1, 1392.9, and 1392.11 of title 3 of the California Code of Regulations to implement the provisions of Assembly Bill 2168 (Ch. 447, Stats. of 2008) and provide enforcement mechanisms for the Certified Farmers' Market Program.

Title 3

California Code of Regulations

ADOPT: 1392.4.1 AMEND: 1392, 1392.1, 1392.2, 1392.4, 1392.6, 1392.8.1, 1392.9, 1392.11

Filed 08/18/2011

Effective 09/17/2011

Agency Contact: Steve Patton (916) 445-2180

File# 2011-0809-01

**DEPARTMENT OF MOTOR VEHICLES
Schools for Traffic Violators: Fees**

This regulatory action creates a new section to establish and revise fees for the licensing and renewal of traffic violator school programs. It also amends other sections regarding fees to conform to the new section.

Title 13

California Code of Regulations

ADOPT: 345.00 AMEND: 345.02, 345.04, 345.15, 345.18, 345.20, 345.22, 345.23, 345.26

Filed 08/23/2011

Effective 09/01/2011

Agency Contact: Randi Calkins (916) 657-8898

File# 2011-0713-03

**DEPARTMENT OF PESTICIDE REGULATION
Enforcement Response**

This regulatory action by the Department of Pesticide Regulation amends sections 6128 and 6130, and renumbers section 6130(b) to section 6131, of title 3 of the California Code of Regulations. The purpose of this

action is to provide County Agricultural Commissioners (CACs) greater flexibility in allocating resources to enforcement and compliance actions taken in response to pesticide and fumigant use violations. These amendments narrow prescriptive enforcement requirements to use violations of higher priority, allow CACs to combine related enforcement actions into single case files, and streamline various reporting and inter-agency referral processes.

Title 3

California Code of Regulations

ADOPT: 6131 AMEND: 6128, 6130

Filed 08/23/2011

Effective 09/22/2011

Agency Contact:

Linda Irokawa-Otani (916) 445-3991

File# 2011-0708-01

**MEDICAL BOARD OF CALIFORNIA
Limited Practice License**

This action adopts 3 new sections in Title 16 of the California Code of Regulations. These new sections set forth the requirements and criteria for the limited practice license. This license is intended for use by applicants who are eligible for a medical license in California, but due to a disability the applicant is unable to practice all aspects of medicine safely. This limited license is established to allow those applicants to practice medicine to the extent that they are capable as determined by an independent medical examination.

Title 16

California Code of Regulations

ADOPT: 1315.50, 1315.53, 1315.55

Filed 08/18/2011

Effective 09/17/2011

Agency Contact: Curt Worden (916) 263-2389

File# 2011-0728-01

**OFFICE OF STATEWIDE HEALTH PLANNING
AND DEVELOPMENT
ESOP update, MS-DRG, ETL Table, add cross-references, forms update**

This change without regulatory effect makes several changes to Article 8, Chapter 10, Division 7 of Title 22 of the California Code of Regulations. Included in these changes is an update to the Expected Source of Payment (ESOP) data element by adding codes for 23 new licensed plans. The ESOP codes are used by California hospitals to file the Hospital Discharge Abstract Data Record with OSHPD for each patient discharged. Additional changes include adding cross-references to existing CCR sections, amending forms by removing former Governor Schwarzenegger's name and removing a subsection that is obsolete.

Title 22

California Code of Regulations

AMEND: 97212, 97213, 97228, 97229, 97232, 97240, 97241, 97246, 97248

Filed 08/23/2011

Agency Contact: Irene Ogbonna (916) 326-3937

File# 2011-0818-01

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

Dispensing Audiologists Fees/Continuing Education

This regulatory action implements statutory changes to establish registration, renewal and professional development requirements for licensed audiologists authorized to dispense hearing aids. AB 1535, which became effective January 1, 2010, merged the Speech-Language Pathology and Audiology Board and the Hearing Aid Dispensers Bureau to create one oversight body, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Title 16

California Code of Regulations

AMEND: 1399.157, 1399.160.3, 1399.160.6

Filed 08/24/2011

Effective 08/24/2011

Agency Contact:

Annemarie Del Mugnaio (916) 263-2909

File# 2011-0818-01

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

Dispensing Audiologists Fees/Continuing Education

This regulatory action implements statutory changes to establish registration, renewal and professional development requirements for licensed audiologists authorized to dispense hearing aids. AB 1535, which became effective January 1, 2010, merged the Speech-Language Pathology and Audiology Board and the Hearing Aid Dispensers Bureau to create one oversight body, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Title 16

California Code of Regulations

AMEND: 1399.157, 1399.160.3, 1399.160.6

Filed 08/24/2011

Effective 08/24/2011

Agency Contact:

Annemarie Del Mugnaio (916) 263-2909

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN March 30, 2011 TO
August 24, 2011**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

08/08/11 ADOPT: 59700
07/27/11 AMEND: 1859.90.2, 1859.81
07/15/11 AMEND: 1151, 1153, 1155.500, 1165, 1170, 1172.20
07/11/11 ADOPT: 21903.5 AMEND: 21903
07/11/11 ADOPT: 570.5 AMEND: 571(b)
07/06/11 AMEND: 1859.2, 1859.81, 1859.148.2, 1859.166.2
07/06/11 AMEND: 18360
07/05/11 AMEND: 649.3, 649.18, 649.20, 649.24
06/30/11 AMEND: 633.9
06/21/11 REPEAL: 59152
06/07/11 AMEND: 640
05/12/11 AMEND: 1859.83
05/04/11 ADOPT: 1190, 1190.01, 1190.02, 1190.03, 1190.04, 1190.05 AMEND: 1181.1, 1181.2
04/28/11 AMEND: 18427.1
04/28/11 AMEND: 1859.90.2
04/27/11 AMEND: 1859.76
04/21/11 REPEAL: 18420.5
04/21/11 AMEND: 18465
04/21/11 ADOPT: 1859.90.2 AMEND: 1859.90.2 (renumbered to 1859.90.3), 1859.129, 1859.197
04/11/11 AMEND: 321
04/06/11 AMEND: 59.3
04/05/11 AMEND: 1859.2, 1859.81, 1859.148.2, 1859.166.2
04/01/11 AMEND: 18734
03/30/11 AMEND: 64.5

Title 3

08/23/11 ADOPT: 6131 AMEND: 6128, 6130
08/18/11 ADOPT: 1392.4.1 AMEND: 1392, 1392.1, 1392.2, 1392.4, 1392.6, 1392.8.1, 1392.9, 1392.11
08/03/11 AMEND: 3437(b)
07/28/11 REPEAL: 1400.9.1
07/15/11 AMEND: 3434(b)

07/15/11	AMEND: 3589	5493, 5494, 5500, 5510, 5520, 5530,
07/15/11	REPEAL: 3286	5531, 5532, 5533, 5534, 5540, 5550,
07/08/11	AMEND: 3658	5560, 5570, 5571, 5572, 5573, 5580,
07/05/11	ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407	5590
06/28/11	AMEND: 3591.15(a)	06/24/11 ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036
06/27/11	AMEND: 3437(b)	06/21/11 AMEND: 1876
06/22/11	AMEND: 3435(b)	06/15/11 ADOPT: 340 AMEND: 221, 222, 226, 230, 288, 300 REPEAL: 262
06/15/11	AMEND: 3437(b)	05/31/11 AMEND: 8078.2
05/31/11	AMEND: 3437(b)	04/18/11 AMEND: 10302, 10315, 10317, 10320, 10322, 10323, 10325, 10326, 10327, 10328
05/11/11	ADOPT: 6446, 6446.1 AMEND: 6400, 6452.4, 6624, 6860	04/01/11 ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036
04/20/11	AMEND: 3434	04/01/11 ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5060, 5061, 5062, 5063, 5064, 5080, 5081, 5082, 5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5140, 5141, 5142, 5143, 5150, 5151, 5152, 5153, 5154, 5155, 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5230, 5231, 5232, 5240, 5250, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, 5550, 5560, 5570, 5571, 5572, 5573, 5580, 5590
04/14/11	ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407	
04/07/11	AMEND: 6445.5, 6448.1, 6449.1, 6450.1, 6452.2, 6452.3, 6452.4, 6536, 6626	
Title 4		
08/16/11	ADOPT: 8078.2 AMEND: 8070, 8072, 8073, 8074	
08/10/11	ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036, 10037	
07/27/11	AMEND: 5064	
07/21/11	ADOPT: 1844.1	
07/20/11	AMEND: 4800, 4801, 4802	
07/20/11	AMEND: 150	
07/12/11	AMEND: 1606, 1974, 1954.1, 1957, 1959, 1976, 1976.8, 1976.9, 1977, 1978, 1979, 1979.1	
07/01/11	ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5060, 5061, 5062, 5063, 5064, 5065, 5066, 5080, 5081, 5082, 5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5133, 5140, 5141, 5142, 5143, 5144, 5150, 5151, 5152, 5153, 5154, 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5221, 5230, 5231, 5232, 5240, 5241, 5250, 5251, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5361, 5362, 5363, 5369, 5370, 5371, 5380, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5480, 5490, 5491, 5492,	
Title 5		
08/15/11	ADOPT: 19817.2, 19817.5, 19840, 19846.1 AMEND: 19815, 19816, 19816.1, 19817.1, 19846	
08/15/11	ADOPT: 40050.2	
08/15/11	ADOPT: 40050.3	
08/15/11	AMEND: 40100.1	
08/15/11	AMEND: 40404	
08/15/11	AMEND: 40405.1	
08/15/11	ADOPT: 40509	
08/15/11	ADOPT: 40513	
08/15/11	ADOPT: 40514	
08/15/11	ADOPT: 40515	
08/15/11	ADOPT: 40516	

08/15/11	ADOPT: 41021	1619.4, 1619.5
08/15/11	ADOPT: 41022	AMEND: 1694, 2940.7, 6060
08/04/11	ADOPT: 1039.1	06/27/11 REPEAL: 10119, 10120
08/04/11	AMEND: 80047, 80047.1, 80047.2, 80047.3, 80047.4, 80047.5, 80047.6, 80047.7, 80047.8, 80047.9, 80048.6	06/20/11 AMEND: 10250.1
06/21/11	AMEND: 58771	06/02/11 AMEND: 5154(j)(1)
06/20/11	ADOPT: 80048.9, 80048.9.4 AMEND: 80046.1, 80048.5, 80070.1, 80070.2, 80070.3, 80070.4, 80070.5, 80070.6 REPEAL: 80046, 80070.7, 80070.8	05/31/11 AMEND: 5155
05/23/11	ADOPT: 13075.3, 13075.6, 13075.7, 13075.8, 13075.9 AMEND: 13075.1, 13075.2, 13075.4 (renumbered from 13075.3), 13075.5 (renumbered from 13075.4)	05/20/11 AMEND: 341.13, 341.14, 341.16, 341.17
05/02/11	ADOPT: 19817.2, 19817.5, 19840, 19846.1 AMEND: 19815, 19816, 19816.1, 19817.1, 19846	05/03/11 AMEND: 3657
05/02/11	ADOPT: 80036.4 AMEND: 80034, 80036, 80036.1, 80036.2, 80036.3, REPEAL: 80036.5	05/02/11 AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464
04/13/11	AMEND: 850, 851, 852, 853, 853.5, 854, 855, 857, 858, 859, 861, 862, 870 (now 862.5), 864, 864.5, 866, 868	04/26/11 AMEND: 3209
04/12/11	ADOPT: 76020, 76140, 76212, 76240 AMEND: 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 76010, 76240	04/18/11 ADOPT: 9792.5.0, 9792.5.1, 9792.5.2, 9792.5.3 AMEND: 9792.5
Title 7		04/18/11 AMEND: 344.30
08/16/11	AMEND: 218	04/13/11 AMEND: 3380
Title 8		Title 9
08/10/11	ADOPT: 3302 AMEND: 3308	08/08/11 ADOPT: 4500, 4510, 4520
08/05/11	ADOPT: 1603.1 AMEND: 1504, 1600, 1602, 1603	Title 10
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